88R20144 JCG-D

By:  Thimesch H.B. No. 2134

Substitute the following for H.B. No. 2134:

By:  Patterson C.S.H.B. No. 2134

A BILL TO BE ENTITLED

AN ACT

relating to regulation of massage therapists and massage establishments by political subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 455.005, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1) and (e) to read as follows:

(b)  Subject to Subsections (b-1) and (c), this [~~This~~] chapter does not affect a local regulation that:

(1)  relates to:

(A)  zoning requirements, including conditional use permits;

(B)  hours of operation; or

(C)  other [~~similar~~] regulations similar to those described by Paragraph (A) or (B) for massage establishments;

(2)  authorizes or requires an investigation into the background of an owner or operator of, or an investor in, a massage establishment; or

(3)  does not relate directly to the practice of massage therapy as performed by a licensed massage therapist, including a regulation related to a license holder listed in Section 455.004, while the therapist:

(A)  performs under the applicable licensing law; and

(B)  works with a licensed massage therapist.

(b-1)  Except as provided by Chapter 243, Local Government Code, a political subdivision may not adopt a regulation of the type described by Subsection (b) that is more restrictive for massage therapists than for other health care professionals.

(c)  A [~~Except as provided by Chapter 243, Local Government Code, a~~] political subdivision may not adopt a regulation of the type described by Subsection (b) that is more restrictive for [~~massage therapists or~~] massage establishments than for other health care [~~professionals or~~] establishments, except that a more restrictive regulation of the type described by Subsection (b) may be adopted:

(1)  as provided by Chapter 243, Local Government Code;

(2)  if regulating the hours of operation of a massage establishment; or

(3)  if the regulation relates to the location, ownership, or operation of a massage establishment:

(A)  where three or more arrests have occurred or citations in lieu of arrest have been issued for an offense under Section 43.02, 43.021, 43.03, 43.04, 43.05, or 71.02, Penal Code;

(B)  where an offense under Chapter 20A, or Section 34.02, 43.02, 43.021, 43.03, 43.04, 43.05, or 71.02, Penal Code, occurred that resulted in a conviction;

(C)  that is operating at a location where another massage establishment against which a sanction was imposed for a violation of this chapter previously operated; or

(D)  that is operating at a location where another massage establishment owned or operated by an individual against whom a sanction was imposed for a violation of this chapter previously operated.

(e)  In this section, "sanction" has the meaning assigned by Section 51.001.

SECTION 2.  This Act takes effect September 1, 2023.