

AN ACT

relating to the regulation of massage therapists and massage establishments by the Texas Department of Licensing and Regulation and 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), (c-1), (c-2), and (e) to read as follows:

(b) Subject to Subsections (b-1), (c), (c-1), and (c-2), 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;

1 and

2 (B) works with a licensed massage therapist.

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

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

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

16 (2) if the regulation relates to the location,
17 ownership, hours of operation, or operation of a massage
18 establishment:

19 (A) where three or more arrests have occurred or
20 citations in lieu of arrest have been issued for an offense under
21 Section 43.02, 43.021, 43.03, 43.04, 43.05, or 71.02, Penal Code,
22 that was committed at the massage establishment;

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

26 (C) that is operating at a location where another
27 massage establishment against which a sanction was imposed for a

1 violation of this chapter previously operated; or

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

6 (c-1) The owner or operator of a message establishment
7 subject to a regulation adopted under Subsection (c)(2)(C) may
8 submit a request to the applicable political subdivision for an
9 exemption from the regulation. The request must include
10 documentation sufficient to demonstrate the owner or operator has
11 undertaken or implemented procedures and controls to prevent the
12 commission of any offense listed in Subsection (c)(2)(A) or (B).

13 (c-2) The governing body of a political subdivision that
14 receives a request under Subsection (c-1) shall:

15 (1) consider, but is not required to approve, the
16 requested exemption at the governing body's next regularly
17 scheduled meeting to be held on a date after the date on which the
18 request is received and that allows sufficient time to comply with
19 Chapter 551, Government Code, if:

20 (A) the ownership of the message establishment
21 subject to a regulation adopted under Subsection (c)(2)(C) changed
22 less than two years before the date of the request under Subsection
23 (c-1); and

24 (B) the current owner of the message
25 establishment is not an individual against whom a sanction has been
26 imposed for a violation of this chapter; or

27 (2) approve the requested exemption as soon as

1 practicable after the date on which the request is received if:

2 (A) the ownership of the massage establishment
3 subject to a regulation adopted under Subsection (c)(2)(C) changed
4 at least two years before the date of the request under Subsection
5 (c-1);

6 (B) in the two-year period preceding the date of
7 the request under Subsection (c-1), an arrest has not occurred for,
8 a citation in lieu of arrest has not been issued for, and a
9 conviction has not resulted from an offense listed in Subsection
10 (c)(2)(A) or (B) committed at the massage establishment; and

11 (C) the current owner of the massage
12 establishment is not an individual against whom a sanction has been
13 imposed for a violation of this chapter.

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

16 SECTION 2. Subchapter F, Chapter 455, Occupations Code, is
17 amended by adding Section 455.252 to read as follows:

18 Sec. 455.252. EMERGENCY ORDER. The executive director may
19 issue an emergency order under Section 51.3511 halting the
20 operation of a massage establishment if:

21 (1) a law enforcement agency gives notice to the
22 department, or the department otherwise learns, that the law
23 enforcement agency is investigating the massage establishment for
24 an offense under Chapter 20A, Penal Code; or

25 (2) the department has reasonable cause to believe
26 that an offense under Chapter 20A, Penal Code, is being committed at
27 the massage establishment.

1 SECTION 3. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 3579 was passed by the House on May 12, 2023, by the following vote: Yeas 137, Nays 4, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3579 on May 25, 2023, by the following vote: Yeas 122, Nays 19, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3579 was passed by the Senate, with amendments, on May 22, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor