

BILL ANALYSIS

Senate Research Center
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H.B. 2747
By: Ortega et al. (Rodríguez)
Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2747 amends current law relating to the licensing and regulation of massage therapy.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 4 (Section 455.207, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 455.1525, Occupations Code, as follows:

Sec. 455.1525. New heading: **CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE**. (a) Requires the Texas Department of Licensing and Regulation (TDLR) to require an applicant for a license to submit a complete and legible set of fingerprints, on a form prescribed by TDLR, to TDLR or to the Department of Public Safety of the State of Texas (DPS) for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation (FBI). Deletes existing text requiring TDLR, on receipt of an application for a license under this chapter (Massage Therapy), to conduct a criminal background check on the applicant.

(b) Prohibits TDLR from issuing a license to a person who does not comply with the requirement of Subsection (a).

(c) Requires TDLR to conduct a criminal history record information check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to TDLR by DPS, the FBI, and any other criminal justice agency under Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

(d) Authorizes TDLR to:

(1) enter into an agreement with DPS to administer a criminal history record information check required under this section; and

(2) authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history record information check.

(e) Requires an applicant, for purposes of this section, if the applicant for a license is an entity, to submit fingerprints as required by Subsection (a) for each individual who:

(1) personally or constructively holds, including as the beneficiary of a trust:

(A) at least 10 percent of the entity's outstanding stock; or

(B) more than \$25,000 of the fair market value of the entity;

(2) has the controlling interest in the entity;

(3) has a direct or indirect participating interest through shares, stock, or otherwise, regardless of whether voting rights are included, of more than 10 percent of the profits, proceeds, or capital gains of the entity;

(4) is a member of the board of directors or other governing body of the entity; or

(5) serves as an elected officer of the entity or a general manager of the entity.

SECTION 2. Amends Section 455.202, Occupations Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Prohibits a massage establishment from:

(1)–(3) makes no changes to these subdivisions;

(4) and (5) makes nonsubstantive changes to these subdivisions; or

(6) allowing any individual, including a student, license holder, or employee, to reside on the premises of the massage establishment.

(e) Provides that Subsection (b)(6) does not apply to:

(1) a place of business exempted under Section 455.155(c)(2) (relating to providing that a place of business is not required to hold a license under this chapter if at the place of business a licensed massage therapist practices as a solo practitioner and meets certain other criteria) from the requirement to hold a license as a massage establishment; or

(2) a licensed massage therapist who practices as a solo practitioner and who is exempted under Section 455.155(b) (relating to providing that a licensed massage therapist who practices as a solo practitioner is not required to hold a license as a massage establishment) from the requirement to hold a license as a massage establishment.

SECTION 3. Amends Section 455.204, Occupations Code, by adding Subsection (b-1) to require the license of a massage therapist that is posted under Subsection (b) (relating to requiring each massage establishment to post in plain sight the license for each massage therapist who practices in the massage establishment) to have attached to the front of the license a photograph of the massage therapist.

SECTION 4. Amends Subchapter E, Chapter 455, Occupations Code, by adding Section 455.207, as follows:

Sec. 455.207. POSTING OF CERTAIN NOTICES REQUIRED. (a) Requires each massage establishment and massage school to display in the form and manner prescribed by the Texas Commission of Licensing and Regulation (TCLR) a sign concerning services and assistance available to victims of human trafficking.

(b) Requires the sign required by this section to:

(1) be in English, Spanish, Korean, Mandarin, and any other language required by TCLR rule;

(2) include a toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking; and

(3) be displayed in a conspicuous place clearly visible to the public.

(c) Requires TCLR by rule to establish requirements regarding the posting of signs under this section.

SECTION 5. Requires TCLR, not later than March 1, 2020, to adopt rules necessary to implement the changes in law made by this Act to Chapter 455, Occupations Code.

SECTION 6. (a) Makes application of Section 455.1525, Occupations Code, as amended by this Act, prospective.

(b) Requires TDLR, not later than September 1, 2021, to obtain criminal history record information on each person who, on the effective date of this Act, holds a license issued under Chapter 455, Occupations Code, and did not undergo a criminal history record information check based on the license holder's fingerprints on initial application for the license. Authorizes TDLR to suspend the license of a license holder who does not provide the criminal history record information as required by TDLR and this subsection.

SECTION 7. Requires a massage establishment, as defined by Section 455.001 (Definitions), Occupations Code, to comply with:

(1) Section 455.204(b-1), Occupations Code, as added by this Act, not later than January 1, 2020; and

(2) Section 455.207, Occupations Code, as added by this Act, not later than April 1, 2020.

SECTION 8. Effective date: September 1, 2019.