

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-25-19

Date

Honorable Dan Patrick
President of the Senate

Honorable Dennis Bonnen
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2747 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jose Rodriguez
Joan Huffman
Robert La Nave

[Signature]

Judith Zaffirini
On the part of the Senate

Senfonia Thompson
Pat Guillet
Bob Landolf

Lina Ortega

Mary Schuman
On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2747

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the licensing and regulation of massage therapy.

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

4 SECTION 1. Section 455.202, Occupations Code, is amended by
5 amending Subsection (b) and adding Subsection (e) to read as
6 follows:

7 (b) A massage establishment may not:

8 (1) employ an individual who is not a United States
9 citizen or a legal permanent resident with a valid work permit;

10 (2) employ a minor unless the minor's parent or legal
11 guardian authorizes in writing the minor's employment by the
12 establishment;

13 (3) allow a nude or partially nude employee to provide
14 massage therapy or other massage services to a customer;

15 (4) allow any individual, including a client, student,
16 license holder, or employee, to engage in sexual contact in the
17 massage establishment; [~~or~~]

18 (5) allow any individual, including a student, license
19 holder, or employee, to practice massage therapy in the nude or in
20 clothing designed to arouse or gratify the sexual desire of any
21 individual; or

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

1 (e) Subsection (b)(6) does not apply to:

2 (1) a place of business exempted under Section
3 455.155(c)(2) from the requirement to hold a license as a massage
4 establishment; or

5 (2) a licensed massage therapist who practices as a
6 solo practitioner and who is exempted under Section 455.155(b) from
7 the requirement to hold a license as a massage establishment.

8 SECTION 2. Section 455.204, Occupations Code, is amended by
9 adding Subsection (b-1) to read as follows:

10 (b-1) The license of a massage therapist that is posted
11 under Subsection (b) must have attached to the front of the license
12 a photograph of the massage therapist.

13 SECTION 3. Subchapter E, Chapter 455, Occupations Code, is
14 amended by adding Section 455.207 to read as follows:

15 Sec. 455.207. POSTING OF CERTAIN NOTICES REQUIRED. (a)
16 Each massage establishment and massage school shall display in the
17 form and manner prescribed by the commission a sign concerning
18 services and assistance available to victims of human trafficking.

19 (b) The sign required by this section must:

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

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

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

27 (c) The commission by rule shall establish requirements

1 regarding the posting of signs under this section.

2 SECTION 4. Not later than March 1, 2020, the Texas
3 Commission of Licensing and Regulation shall adopt rules necessary
4 to implement the changes in law made by this Act to Chapter 455,
5 Occupations Code.

6 SECTION 5. A massage establishment, as defined by Section
7 455.001, Occupations Code, shall comply with:

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

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

12 SECTION 6. This Act takes effect September 1, 2019.

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Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

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SECTION 1. Section 455.1525, Occupations Code, is amended to read as follows:

Sec. 455.1525. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE [~~BACKGROUND CHECKS~~]. (a) The department shall require an applicant for a license to submit a complete and legible set of fingerprints, on a form prescribed by the department, to the department or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation [~~On receipt of an application for a license under this chapter, the department shall conduct a criminal background check on the applicant~~].

(b) The department may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The department shall 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 the department by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history record information check required under this section; and

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

No equivalent provision.

Same as Senate version.

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(e) For purposes of this section, if the applicant for a license is an entity, the applicant must 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:

(A) an elected officer of the entity; or

(B) a general manager of the entity.

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

(b) A massage establishment may not:

(1) employ an individual who is not a United States citizen or a legal permanent resident with a valid work permit;

(2) employ a minor unless the minor's parent or legal guardian authorizes in writing the minor's employment by the establishment;

(3) allow a nude or partially nude employee to provide massage therapy or other massage services to a customer;

(4) allow any individual, including a client, student, license holder, or employee, to engage in sexual contact in the massage establishment; [ø]

No equivalent provision.

SECTION 1. Same as House version.

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CONFERENCE

(5) allow any individual, including a student, license holder, or employee, to practice massage therapy in the nude or in clothing designed to arouse or gratify the sexual desire of any individual; or

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

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

(1) a place of business exempted under Section 455.155(c)(2) 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) from the requirement to hold a license as a massage establishment.

SECTION 3. Section 455.204, Occupations Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The license of a massage therapist that is posted under Subsection (b) must have attached to the front of the license a photograph of the massage therapist.

SECTION 4. Subchapter E, Chapter 455, Occupations Code, is amended by adding Section 455.207.

SECTION 5. Not later than March 1, 2020, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement *the changes in law made by this Act to Chapter 455, Occupations Code.*

No equivalent provision.

SECTION 1. Same as House version.

SECTION 2. (a) Not later than March 1, 2020, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement *Section 455.207, Occupations Code, as added by this Act.*

SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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SECTION 6. (a) Section 455.1525, Occupations Code, as amended by this Act, applies only to an application for a license submitted on or after the effective date of this Act. An application for a license submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

(b) Not later than September 1, 2021, the Texas Department of Licensing and Regulation shall 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. The department may suspend the license of a license holder who does not provide the criminal history record information as required by the department and this subsection.

SECTION 7. A massage establishment, as defined by Section 455.001, Occupations Code, shall 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. This Act takes effect September 1, 2019.

SENATE VERSION (CS)

No equivalent provision.

SECTION 2. (b) A massage establishment, as defined by Section 455.001, Occupations Code, shall comply with Section 455.207, Occupations Code, as added by this Act, not later than April 1, 2020.

SECTION 3. Same as House version.

CONFERENCE

Same as Senate version.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 25, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB2747 by Ortega (Relating to the licensing and regulation of massage therapy.),
Conference Committee Report

<p>No significant fiscal implication to the State is anticipated.</p>
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This bill would amend the Occupations Code relating to the licensing and regulation of massage therapy. Based on information provided by the Texas Department of Licensing and Regulation and Department of Public Safety, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect on September 1, 2019.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 452 Department of Licensing and Regulation

LBB Staff: WP, DFR, SD, CLo, SGr

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under House Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not subject to a point of order under Rule 13.

I certify that a copy of the conference committee report on HB 2747 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

Kevin O'Leary
(name)

5-25-17
(date)