

AN ACT

relating to the occurrence on certain premises of certain activities that may constitute a common nuisance.

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

SECTION 1. Subchapter A, Chapter 125, Civil Practice and Remedies Code, is amended by adding Section 125.0017 to read as follows:

Sec. 125.0017. NOTICE OF ARREST FOR CERTAIN ACTIVITIES. If a law enforcement agency makes an arrest related to an activity described by Section 125.0015(a)(6), (7), or (18) that occurs at property leased to a person operating a massage establishment as defined by Section 455.001, Occupations Code, not later than the 14th day after the date of the arrest, the law enforcement agency may provide written notice by certified mail to each person maintaining the property of the arrest.

SECTION 2. Section 125.004, Civil Practice and Remedies Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (e) and amending Subsection (d) to read as follows:

(a-1) Proof in the form of a person's arrest or the testimony of a law enforcement agent that an activity described by Section 125.0015(a)(6) or (7) is committed at a place licensed as a massage establishment under Chapter 455, Occupations Code, or advertised as offering massage therapy or massage services after notice of an arrest was provided to the defendant in accordance with

1 Section 125.0017 is prima facie evidence that the defendant
2 knowingly tolerated the activity.

3 (a-2) Proof that an activity described by Section
4 125.0015(a)(18) is committed at a place maintained by the defendant
5 after notice of an arrest was provided to the defendant in
6 accordance with Section 125.0017 is prima facie evidence that the
7 defendant:

8 (1) knowingly tolerated the activity; and

9 (2) did not make a reasonable attempt to abate the
10 activity.

11 (a-3) For purposes of Subsections (a-1) and (a-2), notice is
12 only considered to be provided to the defendant seven days after the
13 postmark date of the notice provided under Section 125.0017.

14 (d) Notwithstanding Subsection (a), (a-1), or (a-2),
15 evidence that the defendant, the defendant's authorized
16 representative, or another person acting at the direction of the
17 defendant or the defendant's authorized representative requested
18 law enforcement or emergency assistance with respect to an activity
19 at the place where the common nuisance is allegedly maintained is
20 not admissible for the purpose of showing the defendant tolerated
21 the activity or failed to make reasonable attempts to abate the
22 activity alleged to constitute the nuisance but may be admitted for
23 other purposes, such as showing that a crime listed in Section
24 125.0015 occurred. Evidence that the defendant refused to
25 cooperate with law enforcement or emergency services with respect
26 to the activity is admissible. The posting of a sign prohibiting
27 the activity alleged is not conclusive evidence that the owner did

1 not tolerate the activity.

2 (e) Evidence of a previous suit filed under this chapter
3 that resulted in a judgment against a landowner with respect to an
4 activity described by Section 125.0015 at the landowner's property
5 is admissible in a subsequent suit filed under this chapter to
6 demonstrate that the landowner:

7 (1) knowingly tolerated the activity; and

8 (2) did not make a reasonable attempt to abate the
9 activity.

10 SECTION 3. Section 125.004, Civil Practice and Remedies
11 Code, as amended by this Act, applies only to a cause of action that
12 accrues on or after the effective date of this Act. A cause of
13 action that accrues before the effective date of this Act is
14 governed by the law applicable to the cause of action immediately
15 before the effective date of this Act, and that law is continued in
16 effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 240 was passed by the House on April 26, 2017, by the following vote: Yeas 121, Nays 25, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 240 on May 26, 2017, by the following vote: Yeas 141, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 240 was passed by the Senate, with amendments, on May 24, 2017, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

APPROVED: _____

Date

Governor