



Consumer Protections Against Illicit Massage Businesses

Empower Local Governments to Collect Civil Penalties from Human Traffickers

Illicit massage businesses (IMBs) are fronts for prostitution and sex trafficking. Because they are often cash-only businesses, they are also magnets for burglary and armed robbery. Over 35,000 Texas school children attend a school that is within 1000 feet of an IMB and even conservative estimates show over 700 of these locations statewide. By expanding a previous bill enacted by the Legislature, we can reduce the number of IMBs, enable more legal actions against IMBs at the local level, and potentially recoup more of their illegally-obtained and untaxed profits.



POLICY RECOMMENDATION

Create an exception —patterned after the existing exception for ‘notario fraud’—to permit local government attorneys to collect fees in DTPA actions they bring against an alleged IMBs.

The 85th Legislature (2017) forged a new tool to use in the fight against illicit massage businesses (IMBs) through HB 2552, which made operating a massage establishment in violation of licensing requirements or any local ordinance or regulation a violation of the Deceptive Trade Practices Act (the DTPA). However, the ability to collect civil penalties (or fees) under the DTPA is reserved for actions brought by the Attorney General’s Consumer Protection Division—with one exception: local government attorneys. Local attorneys bring the vast majority of civil suits against IMBs, but, under the current DTPA, they can only obtain injunctive relief. Providing fee collection as a form of relief would turn the DTPA into a powerful weapon against trafficking.

Allowing local attorneys to collect fees is not without precedent. In 2015, the DTPA was amended to allow partial fee collection for DTPA actions brought by district or county attorneys for “notario fraud”, the fraudulent practice of law by a notary public. In some Central American countries, notaries can also perform functions that are reserved for licensed attorneys in the U.S. Immigrants, unaware of this difference, are preyed upon by unscrupulous notaries, who charge these clients for services they cannot perform. Because this practice was widespread and targeting vulnerable populations as well as damaging the legal profession, penalty collection was enabled at the local levels in order to encourage more DTPA suits.

With penalty fees, local attorneys could permanently close these illicit massage businesses by hitting traffickers where it hurts--their wallets.

Unlicensed IMBs are a risk to consumers for many of the same reasons that the legislature supported the notario fraud amendment: 1. vulnerable immigrant populations are being exploited within IMBs 2. IMBs are certainly widespread, and 3. their continued operation damages a legitimate industry. The Attorney General’s Consumer Protection Division has commenced DTPA actions against several IMBs, and all Texans should applaud and support their efforts. However, the sheer number of IMBs precludes any significant decrease through the actions of one division alone. We need to remove the restrictions that currently prohibit local actors from taking meaningful action against IMBs.