

House Study Bill 34 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to certain civil and criminal enforcement
2 activities involving the practice of massage therapy and
3 cosmetology, and human trafficking, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 152C.5B License and
2 government-issued identification — peace officer request.

3 1. For purposes of this section, unless the context
4 otherwise requires:

5 a. "Government-issued identification" means any of the
6 following:

7 (1) An unexpired driver's license issued by any state,
8 territory, or district of the United States.

9 (2) An unexpired identification card issued by any state,
10 territory, or district of the United States.

11 (3) An unexpired United States passport.

12 (4) A naturalization certificate issued by the United
13 States citizenship and immigration services.

14 (5) An unexpired permanent resident card, also known as
15 a green card, issued by the United States citizenship and
16 immigration services.

17 (6) An unexpired employment authorization document issued
18 by the United States citizenship and immigration services.

19 b. "Peace officer" means any of the following:

20 (1) Sheriffs and their regular deputies who are subject to
21 mandated law enforcement training.

22 (2) Marshals and police officers of cities.

23 (3) Peace officer members of the department of public safety
24 as defined in chapter 80.

25 (4) Special security officers employed by board of regents
26 institutions as set forth in section 262.13.

27 (5) Such employees of the department of transportation as
28 are designated "peace officers" by resolution of the department
29 under section 321.477.

30 (6) Employees of an aviation authority designated as "peace
31 officers" by the authority under section 330A.8, subsection 16.

32 2. While engaged in the practice of massage therapy,
33 a person licensed or who purports to be licensed under
34 this chapter shall, upon the request of any peace officer,
35 immediately present a copy of the person's valid massage

1 therapist license and government-issued identification to the
2 peace officer. A person who violates this subsection commits
3 a serious misdemeanor.

4 Sec. 2. NEW SECTION. 152C.5C **Announcements to the public.**

5 1. For purposes of this section, "*announcement to the*
6 *public*" means the use of any print media, broadcast media,
7 internet site, or any other means to advertise or market
8 massage therapy services.

9 2. A person shall not do any of the following in an
10 announcement to the public:

11 a. Represent that another person is licensed under this
12 chapter when the person knows, or has reason to know, that the
13 other person is not licensed.

14 b. Falsely represent the person's self as licensed under
15 this chapter.

16 c. Offer the services of massage therapy if paragraph "a" or
17 "b" of this subsection applies.

18 3. A person who violates subsection 2 commits a serious
19 misdemeanor.

20 Sec. 3. NEW SECTION. 157.4A **License and government-issued**
21 **identification — peace officer request.**

22 1. For purposes of this section, unless the context
23 otherwise requires:

24 a. "*Government-issued identification*" means any of the
25 following:

26 (1) An unexpired driver's license issued by any state,
27 territory, or district of the United States.

28 (2) An unexpired identification card issued by any state,
29 territory, or district of the United States.

30 (3) An unexpired United States passport.

31 (4) A naturalization certificate issued by the United
32 States citizenship and immigration services.

33 (5) An unexpired permanent resident card, also known as
34 a green card, issued by the United States citizenship and
35 immigration services.

1 (6) An unexpired employment authorization document issued
2 by the United States citizenship and immigration services.

3 *b. "Peace officer" means any of the following:*

4 (1) Sheriffs and their regular deputies who are subject to
5 mandated law enforcement training.

6 (2) Marshals and police officers of cities.

7 (3) Peace officer members of the department of public safety
8 as defined in chapter 80.

9 (4) Special security officers employed by board of regents
10 institutions as set forth in section 262.13.

11 (5) Such employees of the department of transportation as
12 are designated "*peace officers*" by resolution of the department
13 under section 321.477.

14 (6) Employees of an aviation authority designated as "*peace*
15 *officers*" by the authority under section 330A.8, subsection 16.

16 2. While engaged in the practice of cosmetology, a person
17 licensed or who purports to be licensed under this chapter
18 shall, upon the request of any peace officer, immediately
19 present a copy of the person's valid cosmetologist license and
20 government-issued identification to the peace officer.

21 **Sec. 4. NEW SECTION. 157.4B Announcements to the public.**

22 1. For purposes of this section, "*announcement to the*
23 *public*" means the use of any print media, broadcast media,
24 internet site, or any other means to advertise or market
25 massage therapy services.

26 2. A person shall not do any of the following in an
27 announcement to the public:

28 *a.* Represent that another person is licensed under this
29 chapter when the person knows, or has reason to know, that the
30 other person is not licensed.

31 *b.* Falsely represent the person's self as licensed under
32 this chapter.

33 3. A person who violates subsection 2 commits a serious
34 misdemeanor.

35 **Sec. 5. Section 710A.1, subsection 3, Code 2021, is amended**

1 to read as follows:

2 3. "*Forced labor or services*" means labor or services
3 that are performed or provided by another person and that are
4 obtained or maintained through any of the following:

5 a. Causing or threatening to cause serious physical injury
6 to any person.

7 b. Physically restraining or threatening to physically
8 restrain another person.

9 c. Abusing or threatening to abuse the law or legal process.

10 d. Knowingly destroying, concealing, removing,
11 confiscating, or possessing any actual or purported ~~passport or~~
12 ~~other immigration document, or any other actual or purported~~
13 government identification document, of another person.

14 e. Knowingly providing or facilitating the provision of
15 a forged, altered, or fraudulent license purportedly issued
16 pursuant to chapter 152C or 157, or a forged, altered, or
17 fraudulent government identification, to another person in
18 order to force, coerce, entice, assist, facilitate, or permit
19 the other person to perform labor or services.

20 f. Knowingly forcing, coercing, enticing, assisting,
21 facilitating, or permitting another person in possession of
22 a forged, altered, or fraudulent license purportedly issued
23 pursuant to chapter 152C or 157, or a forged, altered, or
24 fraudulent government identification, to produce such license
25 or government identification to a peace officer upon request of
26 the peace officer pursuant to section 152C.5B or 157.4A.

27 Sec. 6. Section 710A.2, subsection 6, Code 2021, is amended
28 to read as follows:

29 6. A person who knowingly engages in human trafficking
30 by knowingly destroying, concealing, removing, confiscating,
31 or possessing any actual or purported ~~passport or other~~
32 ~~immigration document, or any other actual or purported~~
33 government identification document of a ~~victim~~ another person
34 is guilty of a class "D" felony, except ~~that~~ if that other
35 person is under the age of eighteen, the person is guilty of a

1 class "C" felony.

2 Sec. 7. Section 710A.2, Code 2021, is amended by adding the
3 following new subsections:

4 NEW SUBSECTION. 7A. A person who knowingly engages in
5 human trafficking by knowingly providing or facilitating
6 the provision of a forged, altered, or fraudulent license
7 purportedly issued pursuant to chapter 152C or 157, or a
8 forged, altered, or fraudulent government identification to
9 another person, to force, coerce, entice, assist, facilitate,
10 or permit the other person to perform labor or services is
11 guilty of an aggravated misdemeanor, except if that other
12 person is under the age of eighteen, the person is guilty of a
13 class "D" felony.

14 NEW SUBSECTION. 7B. A person who knowingly engages in
15 human trafficking by knowingly forcing, coercing, enticing,
16 assisting, facilitating, or permitting another person in
17 possession of a forged, altered, or fraudulent license
18 purportedly issued pursuant to chapter 152C or 157, or a
19 forged, altered, or fraudulent government identification, to
20 produce such license or government identification upon request
21 of a peace officer pursuant to section 152C.5B or 157.4A, is
22 guilty of an aggravated misdemeanor, except if that other
23 person is under the age of eighteen, the person is guilty of a
24 class "D" felony.

25 NEW SUBSECTION. 9. A person who is found guilty, enters
26 a plea of guilty, receives a deferred judgment, or receives a
27 deferred or suspended sentence for a violation of this chapter
28 shall be ineligible for a license pursuant to chapter 152C or
29 157 for a period of not less than five years from the date of
30 conviction, plea, judgment, or sentence.

31 Sec. 8. NEW SECTION. 710A.2B **Premises used for human**
32 **trafficking.**

33 1. A person who owns, rents, leases, or uses any part of
34 a building, structure, boat, trailer, or other place offering
35 shelter or seclusion, and who knows, or has reason to know,

1 that the building, structure, boat, trailer, or other place
2 offering shelter or seclusion is being used for the purposes of
3 human trafficking, commits a class "D" felony.

4 2. It shall be an affirmative defense to a prosecution of a
5 person pursuant to subsection 1, if immediately upon acquiring
6 knowledge that the building, structure, boat, trailer, or other
7 place offering shelter or seclusion is used for the purposes of
8 human trafficking, the person notifies a law enforcement agency
9 with jurisdiction and fully cooperates with any subsequent
10 investigation.

11 Sec. 9. Section 710A.4, Code 2021, is amended to read as
12 follows:

13 **710A.4 Restitution — restorative expenses.**

14 1. For purposes of this section, "restorative expenses"
15 means the projected costs of education, vocational training,
16 medical health, mental health, transportation, housing, child
17 care, or other projected costs that will aid in a victim's
18 recovery.

19 2. The gross income of the a defendant or the value of
20 labor or services performed by the a victim to of the defendant
21 shall be considered when determining the amount of restitution
22 pursuant to chapter 910. For purposes of this section,
23 restitution may include restorative expenses for a period not
24 to exceed ten years as approved and ordered by the court.

25 3. A defendant's ability to pay shall not be a factor in the
26 court's decision to order restorative expenses.

27 4. A defendant's obligation to pay court-ordered
28 restorative expenses shall not be dischargeable in any
29 proceeding under the federal Bankruptcy Act of 1898, as
30 amended.

31 Sec. 10. NEW SECTION. **710A.7 Peace officer referral.**

32 If during the course of an investigation or prosecution
33 under this chapter a peace officer has reason to believe that a
34 person who purports to be licensed pursuant to chapter 152C or
35 157 does not possess a valid license or is in violation of any

1 other state or federal laws, the peace officer may report such
2 noncompliance to the appropriate board as designated in section
3 147.13, to the investigations division of the department of
4 inspections and appeals, and to the appropriate state or
5 federal authorities.

6

EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill relates to certain civil and criminal enforcement
10 activities involving the practice of massage therapy and
11 cosmetology, and human trafficking, and provides penalties.

12 PRACTICE OF MASSAGE THERAPY AND COSMETOLOGY. The bill
13 provides that while engaged in the practice of massage therapy
14 pursuant to Code chapter 152C or cosmetology pursuant to
15 Code chapter 157, a person who is licensed or who purports
16 to be licensed must, immediately upon the request of a peace
17 officer, present a copy of the person's valid license and
18 government-issued identification to the peace officer. A
19 person who fails to comply with such a request commits a
20 serious misdemeanor. The bill provides definitions of
21 "government-issued identification" and "peace officer".

22 The bill prohibits a person, in an announcement to the
23 public, from representing that another person is licensed
24 as a massage therapist or a cosmetologist, when the person
25 knows or has reason to know the other person is not licensed
26 as a massage therapist or a cosmetologist. A person is also
27 prohibited from falsely representing the person's self as being
28 licensed as a massage therapist or a cosmetologist. A person
29 who violates either provision commits a serious misdemeanor.
30 The bill provides a definition of "announcement to the public".

31 HUMAN TRAFFICKING. The bill provides that a person who
32 knowingly engages in human trafficking by knowingly providing
33 or facilitating the provision of a forged, altered, or
34 fraudulent license purportedly issued pursuant to Code chapter
35 152C or 157, or a forged, altered, or fraudulent government

1 identification, to another person to force, coerce, entice,
2 assist, facilitate, or permit the other person to perform labor
3 or services, is guilty of an aggravated misdemeanor. If the
4 other person is under the age of 18, the person is guilty
5 of a class "D" felony. The bill provides that a person who
6 knowingly engages in human trafficking by knowingly forcing,
7 coercing, enticing, assisting, facilitating, or permitting
8 another person in possession of a forged, altered, or
9 fraudulent license purportedly issued pursuant to Code chapter
10 152C or 157, or a forged, altered, or fraudulent government
11 identification, to produce such license or government
12 identification to a peace officer upon request of a peace
13 officer, is guilty of an aggravated misdemeanor. If the other
14 person is under the age of 18, the person is guilty of a class
15 "D" felony. A person who is found guilty, enters a plea of
16 guilty, receives a deferred judgment, or receives a deferred or
17 suspended sentence for either violation shall be ineligible for
18 a massage therapist or cosmetologist license for at least five
19 years.

20 The bill provides that a person who owns, rents, leases, or
21 uses any building, structure, boat, trailer, or other place
22 offering shelter or seclusion, and who knows or has reason to
23 know that the building, structure, boat, trailer, or other
24 place is being used for human trafficking, commits a class
25 "D" felony. It is an affirmative defense if, immediately
26 upon acquiring knowledge of the human trafficking, the person
27 notifies a law enforcement agency with jurisdiction and fully
28 cooperates with any subsequent investigation.

29 The bill provides that a court may order restorative
30 expenses for a period of 10 years as part of a human
31 trafficking victim's restitution. The bill defines
32 "restorative expenses" as the projected costs of education,
33 vocational training, medical health, mental health,
34 transportation, housing, child care, or other projected
35 costs that will aid in a victim's recovery. The court is

1 prohibited from considering a defendant's ability to pay in the
2 court's decision to order restorative expenses. A defendant's
3 obligation to pay court-ordered restorative expenses is not
4 dischargeable in any proceeding under the federal Bankruptcy
5 Act.

6 The bill provides that if during the course of an
7 investigation of or prosecution for human trafficking, a peace
8 officer has reason to believe that a person who purports to
9 be licensed as a massage therapist or a cosmetologist does
10 not possess a valid license, or is in violation of any other
11 state or federal laws, the peace officer may report such
12 noncompliance to the appropriate licensing board, to the
13 investigations division of the department of inspections and
14 appeals, and to the appropriate state or federal authorities.