

Senate File 246 - Introduced

SENATE FILE 246

BY COURNOYER

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. A person licensed or who purports to be licensed under
33 this chapter shall, upon the request of any peace officer
34 investigating a complaint of illegal services, present a
35 copy of the person's valid massage therapist license and

1 government-issued identification to the peace officer. A
2 person who violates this subsection commits a serious
3 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 subscription internet site, internet site available to the
8 public, or any other means to do any of the following:

- 9 a. Advertise or market massage therapy services.
10 b. Provide a site for clients to post reviews.
11 c. Offer a virtual marketplace at which goods or services
12 may be offered or clients may be solicited.

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

- 15 a. Represent that another person is licensed under this
16 chapter when the person knows, or has reason to know, that the
17 other person is not licensed.
18 b. Falsely represent the person's self as licensed under
19 this chapter.
20 c. Offer the services of massage therapy if paragraph "a" or
21 "b" of this subsection applies.
22 d. Offer, or imply the offer of, services that violate state
23 law.

24 3. A person who violates subsection 2 commits a serious
25 misdemeanor.

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

28 1. For purposes of this section, unless the context
29 otherwise requires:

30 a. "*Government-issued identification*" means any of the
31 following:

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

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

1 (3) An unexpired United States passport.

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

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

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

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

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

12 (2) Marshals and police officers of cities.

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

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

17 (5) Such employees of the department of transportation as
18 are designated "*peace officers*" by resolution of the department
19 under section 321.477.

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

22 2. A person licensed or who purports to be licensed under
23 this chapter shall, upon the request of any peace officer
24 investigating a complaint of illegal services, present a copy
25 of the person's valid license issued pursuant to this chapter
26 and a government-issued identification to the peace officer.

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

28 1. For purposes of this section, "*announcement to the*
29 *public*" means the use of any print media, broadcast media,
30 subscription internet site, internet site available to the
31 public, or any other means to do any of the following:

32 *a.* Advertise or market cosmetology services.

33 *b.* Provide a site for clients to post reviews.

34 *c.* Offer a virtual marketplace at which goods or services
35 may be offered or clients may be solicited.

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

3 a. Represent that another person is licensed under this
4 chapter when the person knows, or has reason to know, that the
5 other person is not licensed.

6 b. Falsely represent the person's self as licensed under
7 this chapter.

8 c. Offer, or imply the offer of, services that violate state
9 law.

10 3. A person who violates subsection 2 commits a serious
11 misdemeanor.

12 Sec. 5. Section 710A.1, subsection 3, Code 2021, is amended
13 to read as follows:

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

17 a. Causing or threatening to cause serious physical injury
18 to any person.

19 b. Physically restraining or threatening to physically
20 restrain another person.

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

22 d. Knowingly destroying, concealing, removing,
23 confiscating, or possessing any actual or purported ~~passport or~~
24 ~~other immigration document, or any other actual or purported~~
25 government identification ~~document,~~ of another person.

26 e. Knowingly providing or facilitating the provision of
27 a forged, altered, or fraudulent license purportedly issued
28 pursuant to chapter 152C or 157, or a forged, altered, or
29 fraudulent government identification, to another person in
30 order to force, coerce, entice, assist, facilitate, or permit
31 the other person to perform labor or services.

32 f. Knowingly forcing, coercing, enticing, assisting,
33 facilitating, or permitting another person in possession of
34 a forged, altered, or fraudulent license purportedly issued
35 pursuant to chapter 152C or 157, or a forged, altered, or

1 fraudulent government identification, to produce such license
2 or government identification to a peace officer upon request of
3 the peace officer pursuant to section 152C.5B or 157.4A.

4 g. Knowingly forcing, coercing, intimidating, or compelling
5 another person to perform an act in violation of state or
6 federal law through the use of debt bondage or servitude or as
7 a condition of being allowed to remain in the United States.

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

10 6. A person who knowingly engages in human trafficking
11 by knowingly destroying, concealing, removing, confiscating,
12 or possessing any actual or purported ~~passport or other~~
13 ~~immigration document, or any other actual or purported~~
14 ~~government identification document of a victim~~ another person
15 is guilty of a class "D" felony, except that if that other
16 person is under the age of eighteen, the person is guilty of a
17 class "C" felony.

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

20 NEW SUBSECTION. 7A. A person who knowingly engages in
21 human trafficking by knowingly providing or facilitating
22 the provision of a forged, altered, or fraudulent license
23 purportedly issued pursuant to chapter 152C or 157, or a
24 forged, altered, or fraudulent government identification to
25 another person, to force, coerce, entice, assist, facilitate,
26 or permit the other person to perform labor or services is
27 guilty of an aggravated misdemeanor, except if that other
28 person is under the age of eighteen, the person is guilty of a
29 class "D" felony.

30 NEW SUBSECTION. 7B. A person who knowingly engages in
31 human trafficking by knowingly forcing, coercing, enticing,
32 assisting, facilitating, or permitting another person in
33 possession of a forged, altered, or fraudulent license
34 purportedly issued pursuant to chapter 152C or 157, or a
35 forged, altered, or fraudulent government identification, to

1 produce such license or government identification upon request
2 of a peace officer pursuant to section 152C.5B or 157.4A, is
3 guilty of an aggravated misdemeanor, except if that other
4 person is under the age of eighteen, the person is guilty of a
5 class "D" felony.

6 NEW SUBSECTION. 9. A person who is found guilty, enters
7 a plea of guilty, receives a deferred judgment, or receives a
8 deferred or suspended sentence for a violation of this chapter
9 shall be ineligible for a license pursuant to chapter 152C or
10 157 for a period of not less than five years from the date of
11 conviction, plea, judgment, or sentence.

12 Sec. 8. NEW SECTION. 710A.2B **Premises used for human**
13 **trafficking.**

14 1. A person who owns, rents, leases, or uses any part of
15 a building, structure, boat, trailer, or other place offering
16 shelter or seclusion, and who knows, or has reason to know,
17 that the building, structure, boat, trailer, or other place
18 offering shelter or seclusion is being used for the purposes of
19 human trafficking, commits a class "D" felony.

20 2. It shall be an affirmative defense to a prosecution of a
21 person pursuant to subsection 1, if immediately upon acquiring
22 knowledge that the building, structure, boat, trailer, or other
23 place offering shelter or seclusion is used for the purposes of
24 human trafficking, the person notifies a law enforcement agency
25 with jurisdiction and fully cooperates with any subsequent
26 investigation.

27 3. a. If a law enforcement agency notifies a person who
28 owns, rents, leases, or uses any part of a building, structure,
29 boat, trailer, or other place offering shelter or seclusion
30 of an investigation pursuant to chapter 152C or 157 that may
31 involve the building, structure, boat, trailer, or other
32 place offering shelter or seclusion, the person shall have an
33 affirmative duty to fully cooperate with the investigation.

34 b. A person who fails to fully cooperate with an
35 investigation pursuant to paragraph "a", commits a serious

1 misdemeanor.

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

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

5 1. For purposes of this section, "restorative expenses"
6 means the projected costs of education, vocational training,
7 medical health, mental health, transportation, housing, child
8 care, or other projected costs that will aid in a victim's
9 recovery.

10 2. The gross income of the a defendant or the value of
11 labor or services performed by the a victim to of the defendant
12 shall be considered when determining the amount of restitution
13 pursuant to chapter 910. For purposes of this section,
14 restitution may include restorative expenses for a period not
15 to exceed three years as approved and ordered by the court.

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

18 4. A defendant's obligation to pay court-ordered
19 restorative expenses shall not be dischargeable in any
20 proceeding under the federal Bankruptcy Act of 1898, as
21 amended.

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

23 If, during the course of an investigation or prosecution
24 under this chapter, a peace officer has reason to believe that
25 a person who purports to be licensed pursuant to chapter 152C
26 or 157 does not possess a valid license or is in violation of
27 any other state or federal laws, the peace officer may report
28 such noncompliance to the appropriate licensing board under the
29 professional licensure division within the department of public
30 health and to the appropriate state or federal authorities.

31 EXPLANATION

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

34 This bill relates to certain civil and criminal enforcement
35 activities involving the practice of massage therapy and

1 cosmetology, and human trafficking, and provides penalties.

2 PRACTICE OF MASSAGE THERAPY AND COSMETOLOGY. The bill
3 provides that a person who is licensed or who purports to be
4 licensed in massage therapy pursuant to Code chapter 152C,
5 or in cosmetology pursuant to Code chapter 157, must, upon
6 the request of a peace officer investigating a complaint of
7 illegal services, present a copy of the person's valid license
8 and a government-issued identification to the peace officer.
9 A person who fails to comply with such a request commits
10 a serious misdemeanor. The bill provides definitions of
11 "government-issued identification" and "peace officer".

12 The bill prohibits a person, in an announcement to the
13 public, from representing that another person is licensed
14 as a massage therapist or a cosmetologist, when the person
15 knows or has reason to know the other person is not licensed
16 as a massage therapist or a cosmetologist. A person is also
17 prohibited from falsely representing the person's self as being
18 licensed as a massage therapist or a cosmetologist. A person
19 who violates either provision commits a serious misdemeanor.
20 The bill provides a definition of "announcement to the public".

21 HUMAN TRAFFICKING. The bill provides that a person who
22 knowingly engages in human trafficking by knowingly providing
23 or facilitating the provision of a forged, altered, or
24 fraudulent license purportedly issued pursuant to Code chapter
25 152C or 157, or a forged, altered, or fraudulent government
26 identification, to another person to force, coerce, entice,
27 assist, facilitate, or permit the other person to perform labor
28 or services, is guilty of an aggravated misdemeanor. If the
29 other person is under the age of 18, the person is guilty
30 of a class "D" felony. The bill provides that a person who
31 knowingly engages in human trafficking by knowingly forcing,
32 coercing, enticing, assisting, facilitating, or permitting
33 another person in possession 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 produce such license or government
2 identification to a peace officer upon request of a peace
3 officer, is guilty of an aggravated misdemeanor. If the other
4 person is under the age of 18, the person is guilty of a class
5 "D" felony. A person who is found guilty, enters a plea of
6 guilty, receives a deferred judgment, or receives a deferred or
7 suspended sentence for either violation shall be ineligible for
8 a massage therapist or cosmetologist license for at least five
9 years.

10 The bill expands the definition of "forced labor or
11 services" in Code section 710A.1 to include knowingly forcing,
12 coercing, intimidating, or compelling another person to perform
13 an act in violation of state or federal law through the use of
14 debt bondage or servitude or as a condition of being allowed
15 to remain in the United States.

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

25 The bill also provides that if a law enforcement agency
26 notifies a person who owns, rents, leases, or uses any part of
27 a building, structure, boat, trailer, or other place offering
28 shelter or seclusion of an investigation pursuant to Code
29 chapter 152C or 157, that may involve the building, structure,
30 boat, trailer, or other place offering shelter or seclusion,
31 the person has an affirmative duty to fully cooperate with the
32 investigation. A person who fails to fully cooperate with an
33 investigation commits a serious misdemeanor.

34 The bill provides that a court may order restorative
35 expenses for a period of three years as part of a human

1 trafficking victim's restitution. The bill defines
2 "restorative expenses" as the projected costs of education,
3 vocational training, medical health, mental health,
4 transportation, housing, child care, or other projected
5 costs that will aid in a victim's recovery. The court is
6 prohibited from considering a defendant's ability to pay in the
7 court's decision to order restorative expenses. A defendant's
8 obligation to pay court-ordered restorative expenses is not
9 dischargeable in any proceeding under the federal Bankruptcy
10 Act.

11 The bill provides that if during the course of an
12 investigation of or prosecution for human trafficking, a peace
13 officer has reason to believe that a person who purports to
14 be licensed as a massage therapist or a cosmetologist does
15 not possess a valid license, or is in violation of any other
16 state or federal laws, the peace officer may report such
17 noncompliance to the appropriate licensing board under the
18 professional licensure division within the department of public
19 health, and to the appropriate state or federal authorities.