HOUSE FILE 452
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 34)

(As Amended and Passed by the House March 8, 2021)
[= New Language by the House

A BILL FOR

An Act relating to certain civil and criminal enforcement activities involving the practice of massage therapy and cosmetology, and human trafficking, and providing penalties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

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

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

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

(3) An unexpired United States passport.

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

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

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

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

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

(2) Marshals and police officers of cities.

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

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

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

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

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

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

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

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

a. Advertise or market massage therapy services.

b. Provide a site for clients to post reviews.

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

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

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

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

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

d. Offer, or imply the offer of, services that violate state law.

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

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

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

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

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

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

(3) An unexpired United States passport.

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

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

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

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

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

(2) Marshals and police officers of cities.

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

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

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

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

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

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

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

a. Advertise or market cosmetology services.

b. Provide a site for clients to post reviews.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

misdemeanor.

[Sec. 9. Section 710A.3, Code 2021, is amended by striking the section and inserting in lieu thereof the following:

710A.3 Affirmative defense.

It shall be an affirmative defense, in addition to any other affirmative defenses for which a defendant may be eligible, to a prosecution for a criminal violation of section 152C.5B, 152C.5C, 157.4A, 157.4B, 710A.2, 710A.2A, or 710A.2B, that the violation directly resulted from the defendant's status as a victim of any human trafficking crime under chapter 710A.]

Sec. 10. Section 710A.4, Code 2021, is amended to read as follows:

710A.4 Restitution — restorative expenses.

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

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

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

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

Sec. 11. NEW SECTION. **710A.7 Peace officer referral.**

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

any other state or federal laws, the peace officer may report such noncompliance to the appropriate licensing board under the professional licensure division within the department of public health, and to the appropriate state or federal authorities.