

**29.23 FAILURE TO PROVIDE REQUIRED DOCUMENTS WHILE [WORKING IN]
[OPERATING] A MESSAGE ESTABLISHMENT**
§ 480.0535, Fla. Stat.

To prove the crime of Failure to Provide Required Documents While [Working in] [Operating] a Message Establishment, the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) [was employed by a message establishment] [was performing massage in a message establishment] [operated a message establishment].
2. [A Department of Health investigator] [A law enforcement officer] requested valid government identification from (defendant).

Give this element #3 if Defendant is charged with either being employed by a message establishment or performing a massage in the message establishment.

3. (Defendant) failed to immediately produce:

Give as applicable.

- a. a valid, unexpired driver license issued by a state, territory, or a district of the United States.
- b. a valid, unexpired identification card issued by any state, territory, or district of the United States.
- c. a valid, unexpired United States passport.
- d. a naturalization certificate issued by the United States Department of Homeland Security.
- e. a valid, unexpired alien registration receipt card.
- f. a valid, unexpired employment authorization card issued by the United States Department of Homeland Security.

Give this element #3 if Defendant is charged with operating a message establishment.

3. (Defendant) failed to immediately produce for each employee and person performing massage in the establishment:

Give as applicable.

- a. a valid, unexpired driver license issued by a state, territory, or a district of the United States.
- b. a valid, unexpired identification card issued by any state, territory, or district of the United States.
- c. a valid, unexpired United States passport.
- d. a naturalization certificate issued by the United States Department of

Homeland Security.

- e. a valid, unexpired alien registration receipt card.
- f. a valid, unexpired employment authorization card issued by the United States Department of Homeland Security.

Definitions.

§ 480.033(3), Fla. Stat.

“Massage” means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

§ 480.033(7) and § 480.033(4), Fla. Stat.

“Establishment” means a site or premises, or portion thereof, wherein a massage therapist practices massage. A “massage therapist” is a person licensed by the state, who administers massage for compensation.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comments

There is no definition of “law enforcement officer.”

A first violation is a misdemeanor of the second degree. A second violation is a misdemeanor of the first degree. A third violation is a third degree felony. There is no case law as to whether the State can prove two prior violations to the judge at sentencing or whether the two prior violations are an element of the felony.

This instruction was adopted in 2013.