

Senate Bill 461

By: Senator Stone of the 23rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 43 of the Official Code of Georgia Annotated, relating to
2 barbers and cosmetologists, so as to change certain provisions relating to barbering and the
3 occupation of a cosmetologist; to provide for and change certain definitions; to provide for
4 licensing; to add hair relaxing and straightening to the scope of practice of certain
5 occupations licensed by the State Board of Cosmetology and Barbers; to provide for
6 regulation of shops, salons, and schools by local governments; to change certain provisions
7 related to instruction to be provided to licensees; to change certain provisions related to
8 inspections of certain shops, salons, and schools; to change certain provisions relating to
9 applications for registration; to provide for certain schools to offer additional courses of
10 study; to provide for the board to be the repository for certain education records; to require
11 schools to display certain documents to certain locations; to require certain schools to teach
12 specific courses; to revise certain provisions related to penalties and the unlicensed practice
13 of occupations licensed by the board; to provide for related matters; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 SECTION 1.

17 Chapter 10 of Title 43 of the Official Code of Georgia Annotated, relating to barbers and
18 cosmetologists, is amended by revising Code Section 43-10-1, relating to definitions, as
19 follows:

20 "43-10-1.

21 As used in this chapter, the term:

22 (1) 'Barber apprentice' means an individual who practices barbering under the constant
23 and direct supervision of a licensed master barber.

24 (2) 'Barber II' means an individual who performs any one or more of the following
25 services for compensation:

26 (A) Shaving or trimming the beard;

27 (B) Cutting or dressing the hair;

- 28 (C) Giving facial or scalp massages; or
- 29 (D) Giving facial or scalp treatment with oils or cream or other preparations made for
30 this purpose, either by hand or by means of mechanical appliances.
- 31 (3) 'Barbering' means the occupation of shaving or trimming the beard, cutting or
32 dressing the hair, giving facial or scalp massages, giving facial or scalp treatment with
33 oils or cream or other preparations made for this purpose, either by hand or by means of
34 mechanical appliances, singeing and shampooing the hair, coloring or dyeing the hair, or
35 permanently waving, relaxing, or straightening the hair of an individual for
36 compensation.
- 37 (4) 'Beautician' means 'cosmetologist' as such term is defined in this Code section.
- 38 (5) 'Beauty shop' or 'beauty salon' or 'barber shop' means any premises where one or
39 more ~~persons~~ individuals engage in barbering or in the occupation of a cosmetologist.
- 40 (6) 'Board' means the State Board of Cosmetology and Barbers.
- 41 (7) 'Cosmetologist' means any individual who performs any one or more of the following
42 services for compensation:
- 43 (A) Cuts or dresses the hair;
- 44 (B) Gives facial or scalp ~~massage~~ massages or facial and scalp treatment with oils or
45 ~~creams and cream~~ or other preparations made for this purpose, either by hand or by
46 means of mechanical ~~appliance~~ appliances;
- 47 (C) Singes and shampoos the hair, colors or dyes the hair, or does permanent waving,
48 relaxing, or straightening of the hair;
- 49 (D) Performs ~~nail care, pedicure, or manicuring~~ the services of a nail technician as
50 defined in paragraph ~~(9)~~ (12) of this Code section; or
- 51 (E) Performs the services of an esthetician as defined in paragraph ~~(5)~~ (8) of this Code
52 section.
- 53 Such individual shall be considered as practicing the occupation of a cosmetologist within
54 the meaning of this Code section; provided, however, that such term shall not mean an
55 individual who only braids the hair by hairweaving; interlocking; twisting; plaiting;
56 wrapping by hand, chemical, or mechanical devices; or using any natural or synthetic
57 fiber for extensions to the hair, and no such individual shall be subject to the provisions
58 of this chapter. Such term shall not apply to an individual whose activities are limited to
59 the application of cosmetics which are marketed to individuals and are readily
60 commercially available to consumers.
- 61 (8) 'Esthetician' or 'esthetics operator' means an individual who, for compensation,
62 engages in any one or a combination of the following practices, esthetics, or cosmetic
63 skin care:
- 64 (A) Massaging the face, neck, décolletage, or arms of ~~a person~~ an individual;

- 65 (B) Trimming, tweezing, shaping, or threading eyebrows;
 66 (C) Dyeing eyelashes or eyebrows or applying eyelash extensions; or
 67 (D) Waxing, threading, stimulating, cleansing, or beautifying the face, neck, arms,
 68 ~~shoulders, back, chest, torso,~~ or legs of ~~a person~~ an individual by any method with the
 69 aid of the hands or any mechanical or electrical apparatus or by the use of a cosmetic
 70 preparation.

71 Such practices of esthetics shall not include the diagnosis, treatment, or therapy of any
 72 dermatological condition or medical aesthetics or the use of lasers. Such term shall not
 73 apply to an individual whose activities are limited to the application of cosmetics during
 74 the production of film, television, or musical entertainment or to the application of
 75 cosmetics in a retail environment in which cosmetics are marketed to individuals and are
 76 readily commercially available to consumers.

77 (9) 'Hair designer' means an individual who performs any one or more of the following
 78 services for compensation:

- 79 (A) Cuts or dresses the hair; or
 80 (B) Singes and shampoos the hair, applies a permanent ~~or~~ relaxer or straightener to the
 81 hair, or colors or dyes the hair.

82 (9.1) 'License' means a certificate of registration or other document issued by the board
 83 or by the division director on behalf of the board pursuant to the provisions of this chapter
 84 permitting an individual to practice in an occupation or operate a school.

85 (10) 'Master barber' means an individual who performs any one or more of the following
 86 services for compensation;:

- 87 (A) Shaving or trimming the beard;
 88 (B) Cutting or dressing the hair;
 89 (C) Giving facial or scalp massages;
 90 (D) Giving facial or scalp treatment with oils or cream or other preparations made for
 91 this purpose, either by hand or by means of mechanical appliances; or
 92 (E) Singeing and shampooing the hair, coloring or dyeing the hair, or permanently
 93 waving, relaxing, or straightening the hair.

94 (11) 'Master cosmetologist' means a cosmetologist who is possessed of the requisite skill
 95 and knowledge to perform properly all the services set forth in paragraph (7) of this Code
 96 section for compensation.

97 (12) 'Nail technician' means an individual who, for compensation, performs manicures
 98 or pedicures; or who trims, files, shapes, decorates, applies sculptured or otherwise
 99 artificial nail extensions, or in any way cares for the nails of another ~~person~~ individual.

100 (13) 'Person' means any individual, proprietorship, partnership, corporation, association,
 101 or ~~any~~ other legal entity.

102 (14) 'School of barbering' means any establishment that receives compensation for
 103 training more than one individual in barbering. Technical colleges whose programs have
 104 been approved by the Technical College System of Georgia or the Department of
 105 Education are not ~~'barbering schools'~~ 'schools of barbering' within the meaning of this
 106 chapter; provided, however, that all such colleges and their programs shall be considered
 107 to be 'board approved.'

108 (15) 'School of cosmetology' means any establishment that receives compensation for
 109 training more than one individual in the occupation of a cosmetologist. Technical
 110 colleges whose programs have been approved by the Technical College System of
 111 Georgia or the Department of Education are not 'schools of cosmetology' within the
 112 meaning of this chapter; provided, however, that all such colleges and their programs
 113 shall be considered to be 'board approved.'

114 (16) 'School of esthetics' means any establishment that receives compensation for
 115 training more than one individual in the occupation of an esthetician. Technical colleges
 116 whose programs have been approved by the Technical College System of Georgia or the
 117 Department of Education are not 'schools of esthetics' within the meaning of this chapter;
 118 provided, however, that all such colleges and their programs shall be considered to be
 119 'board approved.'

120 (17) 'School of hair design' means any establishment that receives compensation for
 121 training more than one individual in the occupation of a hair designer. Technical colleges
 122 whose programs have been approved by the Technical College System of Georgia or the
 123 Department of Education are not ~~schools of hair design~~ 'schools of hair design' within the
 124 meaning of this chapter; provided, however, that all such colleges and their programs
 125 shall be considered to be 'board approved.'

126 (18) 'School of nail care' means any establishment that receives compensation for
 127 training more than one ~~person~~ individual in the occupation of a nail technician. Technical
 128 colleges whose programs have been approved by the Technical College System of
 129 Georgia or the Department of Education are not 'schools of nail care' within the meaning
 130 of this chapter; provided, however, that all such colleges and their programs shall be
 131 considered to be 'board approved.'"

132 SECTION 2.

133 Said chapter is further amended by revising Code Section 43-10-6, relating to rules and
 134 regulations as to sanitary requirements, instruction on HIV and AIDS, inspections, and
 135 unsanitary condition as nuisance, as follows:

136 "43-10-6.

137 (a) The board is authorized to adopt reasonable rules and regulations prescribing the
138 sanitary requirements of beauty shops, beauty salons, barber shops, schools of
139 cosmetology, schools of esthetics, schools of hair design, schools of nail care, and schools
140 of barbering ~~subject to the approval of the Department of Public Health~~, and to cause the
141 rules and regulations or any subsequent revisions to be in suitable form; provided, however,
142 that nothing in this chapter shall prevent a county or municipal corporation from adopting
143 ordinances, rules, or regulations governing a business or occupational tax license or
144 certificate; health or facility regulations; zoning; local licensing; or the operation of such
145 shops, salons, or schools in addition to any requirements that may be imposed on such
146 shops, salons, or schools under this chapter or by the board. The board shall make ~~the~~ its
147 rules and regulations available to the proprietor of each beauty shop, beauty salon, barber
148 shop, school of cosmetology, school of esthetics, school of hair design, school of nail care,
149 and school of barbering. It shall be the duty of every proprietor or person operating a
150 beauty shop, beauty salon, barber shop, school of cosmetology, school of esthetics, school
151 of hair design, school of nail care, and school of barbering in this state to keep a copy of
152 such rules and regulations posted in a conspicuous place in such business, so as to be easily
153 read by customers thereof. Posting such rules and regulations by electronic means shall
154 be allowed.

155 (b) The board is authorized to adopt reasonable rules and regulations requiring that
156 individuals issued ~~certificates of registration licenses~~ licenses under this chapter undergo instruction
157 on ~~Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome~~
158 prevention of human immunodeficiency virus (HIV) and acquired immune deficiency
159 syndrome (AIDS).

160 (c) Any investigator or inspector employed by the Secretary of State shall have the power
161 to enter and make reasonable examination of any beauty shop, beauty salon, barber shop,
162 ~~or~~ school of cosmetology, school of hair design, school of esthetics, school of nail care, ~~and~~
163 or school of barbering in the state during business hours; during hours advertised by a shop,
164 salon, or school as being open; and during hours a shop, salon, or school is open as
165 indicated by the presence of patrons for the purpose of enforcing the rules and regulations
166 of the board and for the purpose of ascertaining the sanitary conditions thereof.

167 (d) Any beauty shop, beauty salon, barber shop, ~~or~~ school of cosmetology, school of hair
168 design, school of esthetics, school of nail care, and school of barbering in which tools,
169 appliances, and furnishings used therein are kept in an unclean and unsanitary condition
170 so as to endanger health is declared to be a public nuisance."

171 **SECTION 3.**

172 Said chapter is further amended by revising subsection (h) of Code Section 43-10-9, relating
 173 to application for certificate of registration, as follows:

174 "(h)(1) On and after July 1, 2015, but prior July 1, 2018, any applicant individual
 175 applying for a certificate of registration pursuant to this Code section shall pass both a
 176 board approved written and the practical examination within a 24 month period after
 177 having obtained the required credit hours or shall be required to repeat all of such
 178 required credit hours before retaking the examination examinations. Should an applicant
 179 fail to pass either the written or ~~the~~ practical examination, the board or the board's
 180 designee shall furnish the applicant a statement in writing, stating in what manner the
 181 applicant was deficient.

182 (2) On and after July 1, 2018, any individual applying for a certificate of registration
 183 pursuant to this Code section shall pass both a board approved written and practical
 184 examination within a 48 month period after having obtained the required credit hours or
 185 shall be required to repeat all of such required credit hours before retaking the
 186 examinations. Should an applicant fail to pass either the written or practical examination,
 187 the board or the board's designee shall furnish the applicant a statement in writing, stating
 188 in what manner the applicant was deficient. Board members may attend and observe all
 189 written and practical examinations held for licenses or certificates of registration pursuant
 190 to this Code section."

191 **SECTION 4.**

192 Said chapter is further amended by revising subsections (a) through (c) of Code Section
 193 43-10-12, relating to regulation and permits for schools, teachers and instructors, registration
 194 of apprentices, and certification as teacher by Department of Education, as follows:

195 "(a)(1) All schools of barbering, schools of cosmetology, schools of esthetics, schools
 196 of hair design, ~~or~~ and schools of nail care shall:

197 (A) Cause to be registered in writing with the board, at the time of opening, 15 bona
 198 fide students; provided, however, that any such school may petition to the board to add
 199 additional courses of study with a minimum of five students per course if such school
 200 has an active license in good standing;

201 (B) Have not less than one instructor for every 20 students or a fraction thereof;

202 (C) Keep permanently displayed a sign reading 'School of Cosmetology,' 'School of
 203 Hair Design,' 'School of Esthetics,' 'School of Nail Care,' or 'School of Barbering' ~~as the~~
 204 ~~case may be~~ applicable; and all such signs shall also display the words 'Service by
 205 Students Only.' Where service is rendered by a student, no commissions or premiums

206 shall be paid to such student for work done in the schools; nor shall any ~~person~~
 207 individual be employed by the schools to render professional service to the public; and
 208 (D) Provide transcripts to students upon graduation or withdrawal from the school,
 209 provided that all tuition and fees due to the school have been satisfied. Student records
 210 shall be transmitted to the board on a quarterly basis unless otherwise specified by the
 211 board through rules and regulations. Student records shall be maintained by the schools
 212 for a minimum of five years. If a school closes its business, the owner is required to
 213 provide copies of all student records, including, but not limited to, transcripts, to the
 214 ~~Non-Public Postsecondary Education Commission~~ board within ~~thirty~~ 30 days of the
 215 school closure.

216 (2) All schools of cosmetology, schools of hair design, schools of esthetics, schools of
 217 nail care, and schools of barbering ~~are required to~~ shall keep in a conspicuous place as
 218 determined by the board through rules and regulations in such schools a copy of the rules
 219 and regulations adopted by the board.

220 (3) All ~~master barbers and~~ master cosmetologists, hair designers, estheticians, nail care
 221 technicians, master barbers, and barbers II who take an apprentice pursuant to Code
 222 Section 43-10-14 shall file immediately with the board through the division director the
 223 name and age of such apprentice; and the board shall cause such information to be
 224 entered on a register kept by the division director for that purpose.

225 (b) Any person desiring to operate or conduct a school of cosmetology, school of hair
 226 design, school of esthetics, school of nail care, or school of barbering prior to opening shall
 227 first secure from the board a permit license to do so and shall keep the permit license
 228 prominently displayed in the school in a location determined by the board through rules
 229 and regulations.

230 (c) The board shall have the authority to pass upon the qualifications, appointments,
 231 courses of study, and hours of study in the school of cosmetology, school of hair design,
 232 school of esthetics, school of nail care, or school of barbering, provided that:

233 (1) All schools of cosmetology shall be required to teach the following courses: theory,
 234 permanent and cold hair waving, hair coloring ~~and,~~ hair bleaching, hair relaxing, hair
 235 straightening, hair and scalp treatments, massaging the face, neck, and scalp, hair and
 236 scalp conditioning, hair cutting and shaping, hairdressing, shampooing, styling, comb out,
 237 ~~charm,~~ waxing, threading, tweezing, reception, desk work, ~~art and laboratory,~~ facials,
 238 makeup and arching, skin care, nail care, state law, ~~state~~ board rules and regulations, and
 239 any other subjects related to cosmetology and sanitation;

240 (1.1) All schools of hair design shall be required to teach the following courses: theory,
 241 permanent and cold hair waving, hair coloring, hair bleaching, hair relaxing, hair
 242 straightening, hair and scalp treatments, massaging the scalp, hair and scalp conditioning,

243 hair cutting and shaping, hairdressing, shampooing, styling, comb out, reception, desk
 244 work, state law, board rules and regulations, and any other subjects related to hair design
 245 and sanitation;

246 (2) All schools of esthetics shall be required to teach the following courses: theory, skin
 247 care, facials, makeup and arching, eyelash extensions, ~~charm~~, reception, desk work, ~~art~~
 248 ~~and laboratory~~, massaging the face, neck, ~~decolletage~~, décolletage, or arms, trimming,
 249 tweezing, or threading eyebrows and other facial hair, dyeing, waxing, stimulating,
 250 cleansing, or beautifying, state law, ~~state~~ board rules and regulations, and any other
 251 subjects related to esthetics and sanitation;

252 (3) All schools of nail care shall be required to teach the following courses: theory,
 253 trimming, filing, shaping, decorating, sculpturing and artificial nails, nail care,
 254 pedicuring, ~~charm~~, reception, desk work, ~~art and laboratory~~, state law, ~~state~~ board rules
 255 and regulations, and any other subjects related to nail care and sanitation; and

256 (4) All schools of barbering shall be required to teach the following courses: theory, hair
 257 and scalp treatments, massaging the face, neck, and scalp, shampooing and conditioning,
 258 shaving, coloring of hair, hair cutting and styling, facial hair design ~~and~~, facial hair
 259 waxing, permanent and cold hair waving, hair relaxing, and hair straightening, chemical
 260 application, reception, desk work, state law, board rules and regulations, and any other
 261 subjects related to barbering and sanitation."

262 **SECTION 5.**

263 Said chapter is further amended by revising Code Section 43-10-16, relating to injunction
 264 against unlicensed or unregistered practice, as follows:

265 "43-10-16.

266 The board may bring an action to enjoin any person, ~~firm, or corporation~~ from engaging
 267 in barbering or the practice or the occupation of a cosmetologist, hair designer, esthetician,
 268 nail technician, master barber, or barber II if such person without being licensed ~~or~~
 269 ~~registered~~ to do so by the board; engages in or practices barbering or the practice or
 270 occupation of cosmetology a cosmetologist, hair designer, esthetician, nail technician,
 271 master barber, or barber II. The action shall be brought in the county in which such
 272 individual resides or, in the case of a firm or corporation, where the firm or corporation
 273 maintains its principal office; and, unless it appears that such person, ~~firm, or corporation~~
 274 so engaging or practicing in barbering or the practice or occupation of a cosmetologist, hair
 275 designer, esthetician, nail technician, master barber, or barber II is licensed ~~or registered~~,
 276 the injunction shall be issued, and such person; shall be perpetually enjoined from engaging
 277 or practicing in such activities throughout the state. It shall not be necessary in order to
 278 obtain the equitable relief provided in this Code section for the board to allege and prove

279 that there is no adequate remedy at law. It is declared that the unlicensed activities referred
 280 to in this Code section are a menace and a nuisance dangerous to the public health, safety,
 281 and welfare."

282 **SECTION 6.**

283 Said chapter is further amended by revising subsection (a) of Code Section 43-10-19, relating
 284 to penalty, as follows:

285 "(a) If any ~~person~~ individual not lawfully entitled to a ~~certificate of registration license~~
 286 under this chapter shall practice the occupation of a ~~barber or cosmetologist, hair designer,~~
 287 esthetician, nail technician, master barber, or barber II; or if any such ~~person~~ individual
 288 shall endeavor to learn the trade of a ~~barber or cosmetologist, hair designer, esthetician, nail~~
 289 technician, master barber, or barber II by practicing the same under the instructions of a
 290 ~~barber or cosmetologist, hair designer, esthetician, nail technician, master barber, barber~~
 291 II, or other ~~person~~ individual, other than as provided in this chapter; or if any such person
 292 shall instruct or attempt to instruct any ~~person~~ individual in such trade; or if any proprietor
 293 of or person in control of or operating any beauty shop, beauty salon, school of
 294 cosmetology, school of hair design, school of esthetics, school of nail care, or school of
 295 barbering shall knowingly employ for the purpose of practicing such occupation any ~~barber~~
 296 ~~or cosmetologist, hair designer, esthetician, nail technician, master barber, or barber II~~ not
 297 ~~registered~~ licensed under this chapter; or if any person, beauty shop, beauty salon, barber
 298 shop, school of cosmetology, school of hair design, school of esthetics, school of nail care,
 299 or school of barbering shall engage in any of the acts covered in this chapter though not
 300 ~~registered~~ licensed under the provisions of this chapter; or if any ~~person~~ individual shall
 301 falsely or fraudulently pretend to be qualified under this chapter to practice or learn such
 302 trade or occupation; or if any person shall violate any provision of ~~the~~ this chapter for
 303 which a penalty is not specifically provided, such person shall be guilty of a misdemeanor."

304 **SECTION 7.**

305 All laws and parts of laws in conflict with this Act are repealed.