

The House Committee on Judiciary Non-civil offers the following substitute to SB 364:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to  
2 massage therapy practice, so as to provide better control and regulation of the practice of  
3 massage therapy; to provide for a definition; to change provisions relating to the powers of  
4 the Georgia Board of Massage Therapy; to change and expand acts constituting violations  
5 of the chapter; to change provisions relating to disciplinary actions; to clarify provisions  
6 relating to local regulation of massage therapy; to increase punishment for violations of the  
7 chapter; to provide for related matters; to provide an effective date and applicability; to  
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to massage  
12 therapy practice, is amended in Code section 43-24A-3, relating to definitions, by adding a  
13 new paragraph to read as follows:

14 "(4.1) 'Entity' means the owner or operator of a business where massage therapy for  
15 compensation is performed."

16 **SECTION 2.**

17 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section  
18 43-24A-7, relating to powers of the Georgia Board of Massage Therapy, as follows:

19 "(3) Conduct investigations for the purpose of discovering violations of this chapter or  
20 grounds for disciplining persons ~~licensed under~~ entities acting in violation of this  
21 chapter;"

22 **SECTION 3.**

23 Said chapter is further amended by revising Code Section 43-24A-15, relating to unlawful  
24 acts, as follows:

25 "43-24A-15.

26 (a) It ~~is shall be~~ a violation of this chapter for any person or entity to advertise massage  
27 therapy services or to advertise the offering of massage therapy services unless such  
28 services are provided by a person who holds a valid license under this chapter.

29 (b) It shall be a violation of this chapter for any person to advertise:

30 (1) As a massage therapist unless the person holds a valid license under this chapter in  
31 the classification so advertised; or

32 (2) Massage therapy services combined with escort or dating services or adult  
33 entertainment.

34 (c) It shall be ~~unlawful~~ a violation of this chapter for a person or ~~business~~ entity, or its the  
35 employees, agents, or representatives of such person or entity, to practice massage therapy  
36 or to use in connection with its such person's or entity's name or business activity the terms  
37 'massage,' 'massage therapy,' 'massage therapist,' 'massage practitioner,' or the letters 'M.T.,'  
38 'L.M.T.,' or any other words, letters, abbreviations, or insignia indicating or implying  
39 directly or indirectly that massage therapy is provided or supplied unless such massage  
40 therapy is provided by a massage therapist licensed and practicing in accordance with this  
41 chapter.

42 (d) It shall be a violation of this chapter for any entity to:

43 (1) Advertise the offering of massage therapy services combined with escort or dating  
44 services or adult entertainment; or

45 (2) Employ unlicensed massage therapists to perform massage therapy.

46 (e) It shall be a violation of this chapter for any person to practice massage therapy without  
47 holding a current or provisional license as a massage therapist in accordance with  
48 subsection (a) of Code Section 43-24A-8.

49 (f) It shall be a violation of this chapter for any person or entity, or the employees, agents,  
50 or representatives of such person or entity, to render or offer massage therapy services for  
51 compensation unless such massage therapy is provided by a licensed massage therapist."

#### 52 SECTION 4.

53 Said chapter is further amended by revising Code Section 43-24A-17, relating to disciplinary  
54 actions, as follows:

55 "43-24A-17.

56 (a) The board ~~shall may~~ take ~~disciplinary action in accordance with the provisions of~~  
57 ~~Chapter 1 of this title:~~ any one or more of the following actions against a person or entity  
58 found by the board to have committed a violation of this chapter:

59 (1) Reprimand or place the licensee on probation;

60 (2) Revoke or suspend the license or deny the issuance or renewal of a license;

- 61 (3) Impose an administrative fine not to exceed \$500.00 for each violation; and  
 62 (4) Assess costs against the violator for expenses relating to the investigation and  
 63 administrative action.  
 64 (b) The board may assess collection costs and interest for the collection of fines imposed  
 65 under this chapter against any person or entity that fails to pay a fine as directed by the  
 66 board."

#### 67 SECTION 5.

68 Said chapter is further amended by revising Code Section 43-24A-22, relating to local  
 69 regulation, as follows:

70 "43-24A-22.

71 (a) This chapter shall not be construed to prohibit a county or municipality from enacting  
 72 any regulation of persons not licensed pursuant to this chapter. Any place of business  
 73 where massage therapy for compensation is performed shall also be subject to regulation  
 74 by local governing authorities.

75 (b) No provision of any ordinance enacted by a municipality, county, or other jurisdiction  
 76 that is in effect before July 1, 2005, and that relates to the practice of massage therapy or  
 77 requires licensure of a massage therapist may be enforced against a person who is issued  
 78 a license by the board under this chapter."

#### 79 SECTION 6.

80 Said chapter is further amended by revising Code Section 43-24A-24, relating to fines and  
 81 punishments for violations, as follows:

82 "43-24A-24.

83 (a) Any person who ~~practices massage therapy without a valid license~~ acts in violation of  
 84 this chapter Code Section 43-24A-15, upon conviction thereof, shall be punished as  
 85 provided in this Code section.

86 (b) Each act of unlawful practice under this Code section shall constitute a distinct and  
 87 separate offense.

88 (c) Upon being convicted a first time under this Code section, such person or entity shall  
 89 be ~~guilty of and shall be punished by a fine of not more than \$500.00~~ as for a misdemeanor  
 90 for each offense. Upon being convicted a second time under this Code section, such person  
 91 or entity shall be guilty of and shall be punished as for a misdemeanor of a high and  
 92 aggravated nature. ~~Upon being convicted a second~~ third or subsequent time under this  
 93 Code section, such person or entity shall be guilty of a felony and shall be punished by a  
 94 fine of not more than ~~\$1,000.00~~ \$25,000.00 for each offense, imprisonment for not ~~more~~  
 95 than ~~12 months~~ less than one nor more than five years, or both."

96 **SECTION 7.**

97 This Act shall become effective on July 1, 2010, and shall apply to all offenses which occur  
98 on and after that date.

99 **SECTION 8.**

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