

Senate Bill 364

By: Senators Staton of the 18th, Unterman of the 45th, Murphy of the 27th, Brown of the 26th, Douglas of the 17th and others

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 that, upon conviction for a sexual offense, a  
3 person's massage therapist license shall be suspended for certain time periods; to provide for  
4 reinstatement under certain circumstances; to increase penalties for violations; to provide for  
5 local regulation in addition to state regulation; to provide for related matters; to provide an  
6 effective date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to massage  
10 therapy practice, is amended by revising Code Section 43-24A-15, relating to unlawful acts,  
11 as follows:

12 "43-24A-15.

13 (a) It is a violation of this chapter for any person to advertise massage therapy services  
14 unless such services are provided by a person who holds a valid license under this chapter.

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

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

18 (2) Massage therapy services combined with escort or dating services or adult  
19 entertainment.

20 (c) It shall be unlawful for a person or business entity or its employees, agents, or  
21 representatives to practice massage therapy or to use in connection with its name or  
22 business activity the terms 'massage,' 'massage therapy,' 'massage therapist,' 'massage  
23 practitioner,' or the letters 'M.T.,' 'L.M.T.,' or any other words, letters, abbreviations, or  
24 insignia indicating or implying directly or indirectly that massage therapy is provided or  
25 supplied unless such massage therapy is provided by a massage therapist licensed and  
26 practicing in accordance with this chapter.

27 (d) Any person, upon being convicted a first time for a violation of this Code section, shall  
 28 be guilty of and shall be punished as for a misdemeanor. Upon being convicted a second  
 29 time under this Code section, such person shall be guilty of and shall be punished as for a  
 30 misdemeanor of a high and aggravated nature. Upon being convicted of a third or  
 31 subsequent violation of this Code section, such person shall be guilty of a felony and shall  
 32 be punished by imprisonment for not less than one nor more than five years, a fine not to  
 33 exceed \$25,000.00, or both."

34 **SECTION 2.**

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

37 "43-24A-17.

38 (a) The board shall take disciplinary action in accordance with the provisions of Chapter 1  
 39 of this title.

40 (b) After notice and hearing, the license of any person licensed under this chapter who is  
 41 found guilty or enters a plea of guilty or nolo contendere to a violation of Chapter 6 of  
 42 Title 16 shall be suspended for not less than one nor more than two years on the first  
 43 occurrence, not less than two nor more than five years on the second occurrence, and  
 44 permanently on the third occurrence.

45 (c) A person whose license is suspended under subsection (b) of this Code section for a  
 46 first or second occurrence may apply for reinstatement after the suspension period set by  
 47 the board and pay a reinstatement fee of \$1,000.00 in addition to any and all other fees that  
 48 may be required."

49 **SECTION 3.**

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

52 "43-24A-22.

53 (a) This chapter shall not be construed to prohibit a county or municipality from enacting  
 54 any regulation of persons not licensed pursuant to this chapter. No provision of any  
 55 ordinance enacted by a municipality, county, or other jurisdiction that is in effect before  
 56 July 1, 2005, and that relates to the practice of massage therapy or requires licensure of a  
 57 massage therapist may be enforced against a person who is issued a license by the board  
 58 under this chapter.

59 (b) Persons licensed under this chapter shall be subject to regulation by counties or  
 60 municipalities with regard to the operation of massage or massage therapy businesses  
 61 within the jurisdiction of such counties or municipalities, the licensing of such businesses,

62 and issues regarding health, safety, and protection of the public in connection with such  
 63 businesses."

64 **SECTION 4.**

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

67 "43-24A-24.

68 (a) Any person who practices massage therapy without a valid license in violation of this  
 69 chapter, upon conviction thereof, shall be punished as provided in this Code section.

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

72 (c) Upon being convicted a first time under this Code section, such person shall be guilty  
 73 of and shall be punished by a fine of not more than \$500.00 as for a misdemeanor for each

74 offense. Upon being convicted a second time under this Code section, such person shall  
 75 be guilty of and shall be punished as for a misdemeanor of a high and aggravated nature.

76 Upon being convicted a ~~second~~ third or subsequent time under this Code section, such  
 77 person shall be guilty of a felony and shall be punished by a fine of not more than

78 \$1,000.00 \$25,000.00 for each offense, imprisonment for not ~~more than 12 months~~ less  
 79 than one nor more than five years, or both."

80 **SECTION 5.**

81 This Act shall become effective on July 1, 2010, and shall apply to all verdicts and pleas  
 82 entered on and after that date.

83 **SECTION 6.**

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