

Senate Bill 461

By: Senator Stone of the 23rd

AS PASSED SENATE

**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~~ under this chapter undergo instruction
 157 on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome.

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

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

169 **SECTION 3.**

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

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

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

189 SECTION 4.

190 Said chapter is further amended by revising subsections (a) through (c) of Code Section
 191 43-10-12, relating to regulation and permits for schools, teachers and instructors, registration
 192 of apprentices, and certification as teacher by Department of Education, as follows:

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

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

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

200 (C) Keep permanently displayed a sign reading 'School of Cosmetology,' 'School of
 201 Hair Design,' 'School of Esthetics,' 'School of Nail Care,' or 'School of Barbering' as ~~the~~
 202 ~~case may be~~ applicable; and all such signs shall also display the words 'Service by
 203 Students Only.' Where service is rendered by a student, no commissions or premiums
 204 shall be paid to such student for work done in the schools; nor shall any ~~person~~
 205 individual be employed by the schools to render professional service to the public; and

206 (D) Provide transcripts to students upon graduation or withdrawal from the school,
 207 provided that all tuition and fees due to the school have been satisfied. Student records

208 shall be maintained by the schools for a minimum of five years. If a school closes its
 209 business, the owner is required to provide copies of all student records, including, but
 210 not limited to, transcripts, to the ~~Non-Public Postsecondary Education Commission~~
 211 board within ~~thirty~~ 30 days of the school closure.

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

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

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

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

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

236 (1.1) All schools of hair design shall be required to teach the following courses: theory,
 237 permanent and cold hair waving, hair coloring, hair bleaching, hair relaxing, hair
 238 straightening, hair and scalp treatments, massaging the scalp, hair and scalp conditioning,
 239 hair cutting and shaping, hairdressing, shampooing, styling, comb out, reception, desk
 240 work, state law, board rules and regulations, and any other subjects related to hair design
 241 and sanitation;

242 (2) All schools of esthetics shall be required to teach the following courses: theory, skin
 243 care, facials, makeup and arching, eyelash extensions, ~~charm~~, reception, desk work, ~~art~~
 244 ~~and laboratory~~, massaging the face, neck, ~~décolletage~~, décolletage, or arms, trimming,

245 tweezing, or threading eyebrows and other facial hair, dyeing, waxing, stimulating,
 246 cleansing, or beautifying, state law, ~~state~~ board rules and regulations, and any other
 247 subjects related to esthetics and sanitation;

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

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

258 SECTION 5.

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

261 "43-10-16.

262 The board may bring an action to enjoin any person, ~~firm, or corporation~~ from engaging
 263 in barbering or the practice or the occupation of a cosmetologist, hair designer, esthetician,
 264 nail technician, master barber, or barber II if such person without being licensed ~~or~~
 265 ~~registered~~ to do so by the board; engages in or practices barbering or the practice or
 266 occupation of cosmetology a cosmetologist, hair designer, esthetician, nail technician,
 267 master barber, or barber II. The action shall be brought in the county in which such
 268 individual resides or, in the case of a firm or corporation, where the firm or corporation
 269 maintains its principal office; and, unless it appears that such person, ~~firm, or corporation~~
 270 so engaging or practicing in barbering or the practice or occupation of a cosmetologist, hair
 271 designer, esthetician, nail technician, master barber, or barber II is licensed ~~or registered~~,
 272 the injunction shall be issued, and such person; shall be perpetually enjoined from engaging
 273 or practicing in such activities throughout the state. It shall not be necessary in order to
 274 obtain the equitable relief provided in this Code section for the board to allege and prove
 275 that there is no adequate remedy at law. It is declared that the unlicensed activities referred
 276 to in this Code section are a menace and a nuisance dangerous to the public health, safety,
 277 and welfare."

278 SECTION 6.

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

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

300

SECTION 7.

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