

Senate Bill 461

By: Senator Stone of the 23rd

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 40 of Title 31 and Chapter 10 of Title 43 of the Official Code of Georgia
2 Annotated, relating to tattoo studios and barbers and cosmetologists, respectively, so as to
3 change certain provisions relating to cosmetic and other services and procedures performed
4 in this state; to provide that microblading of the eyebrow is included as tattooing; to provide
5 that microblading of the eyebrow is not considered illegal tattooing near the eye; to provide
6 for and change certain definitions relative to barbers and the practice of cosmetology; to
7 provide for licensing of such professions; to add hair relaxing and straightening to the scope
8 of practice of certain occupations licensed by the State Board of Cosmetology and Barbers;
9 to provide for regulation of shops, salons, and schools by local governments; to change
10 certain provisions related to instruction to be provided to licensees; to change certain
11 provisions related to inspections of certain shops, salons, and schools; to change certain
12 provisions relating to applications for registration; to provide for certain schools to offer
13 additional courses of study; to provide for the board to be the repository for certain education
14 records; to require schools to display certain documents to certain locations; to require
15 certain schools to teach specific courses; to revise certain provisions related to penalties and
16 the unlicensed practice of occupations licensed by the board; to provide for related matters;
17 to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Chapter 40 of Title 31 of the Official Code of Georgia Annotated, relating to tattoo studios,
21 is amended by revising Code Section 31-40-1, relating to definitions, as follows:

22 "31-40-1.

23 As used in this chapter, the term:

24 (1) 'Microblading of the eyebrow' means a form of cosmetic tattoo artistry where ink is
25 deposited superficially in the upper three layers of the epidermis using a handheld tool
26 made up of needles known as a microblade to improve or create eyebrow definition, to

27 cover gaps of lost or missing hair, to extend the natural eyebrow pattern, or to create a
 28 full construction if the eyebrows have little to no hair.

29 ~~(1)~~(2) 'Tattoo' means to mark or color the skin by pricking in, piercing, or implanting
 30 indelible pigments or dyes under the skin. Such term includes microblading of the
 31 eyebrow.

32 ~~(2)~~(3) 'Tattoo artist' means any person who performs tattooing, except that the term tattoo
 33 artist shall not include in its meaning any physician or osteopath licensed under Chapter
 34 34 of Title 43, nor shall it include any technician acting under the direct supervision of
 35 such licensed physician or osteopath, pursuant to subsection (a) of Code Section 16-5-71.

36 ~~(3)~~(4) 'Tattoo studio' means any facility or building on a fixed foundation wherein a
 37 tattoo artist performs tattooing."

38 **SECTION 2.**

39 Said chapter is further amended by revising Code Section 31-40-10, relating to criminal law
 40 not repealed, as follows:

41 "31-40-10.

42 Nothing in this chapter shall be construed to repeal the provisions of Code Section 16-12-5;
 43 provided, however, that Code Section 16-12-5 shall not apply to microblading of the
 44 eyebrow."

45 **SECTION 3.**

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

49 "43-10-1.

50 As used in this chapter, the term:

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

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

55 (A) Shaving or trimming the beard;

56 (B) Cutting or dressing the hair;

57 (C) Giving facial or scalp massages; or

58 (D) Giving facial or scalp treatment with oils or cream or other preparations made for
 59 this purpose, either by hand or by means of mechanical appliances.

60 (3) 'Barbering' means the occupation of shaving or trimming the beard, cutting or
 61 dressing the hair, giving facial or scalp massages, giving facial or scalp treatment with

62 oils or cream or other preparations made for this purpose, either by hand or by means of
 63 mechanical appliances, singeing and shampooing the hair, coloring or dyeing the hair, or
 64 permanently waving, relaxing, or straightening the hair of an individual for
 65 compensation.

66 (4) 'Beautician' means 'cosmetologist' as such term is defined in this Code section.

67 (5) 'Beauty shop' or 'beauty salon' or 'barber shop' means any premises where one or
 68 more ~~persons~~ individuals engage in barbering or in the occupation of a cosmetologist.

69 (6) 'Board' means the State Board of Cosmetology and Barbers.

70 (7) 'Cosmetologist' means any individual who performs any one or more of the following
 71 services for compensation:

72 (A) Cuts or dresses the hair;

73 (B) Gives facial or scalp ~~massage~~ massages or facial and scalp treatment with oils or
 74 ~~creams and cream or~~ other preparations made for this purpose, either by hand or by
 75 means of mechanical appliance appliances;

76 (C) Singes and shampoos the hair, colors or dyes the hair, or does permanent waving,
 77 relaxing, or straightening of the hair;

78 (D) Performs ~~nail care, pedicure, or manicuring~~ the services of a nail technician as
 79 defined in paragraph ~~(9)~~ (12) of this Code section; or

80 (E) Performs the services of an esthetician as defined in paragraph ~~(5)~~ (8) of this Code
 81 section.

82 Such individual shall be considered as practicing the occupation of a cosmetologist within
 83 the meaning of this Code section; provided, however, that such term shall not mean an
 84 individual who only braids the hair by hairweaving; interlocking; twisting; plaiting;
 85 wrapping by hand, chemical, or mechanical devices; or using any natural or synthetic
 86 fiber for extensions to the hair, and no such individual shall be subject to the provisions
 87 of this chapter. Such term shall not apply to an individual whose activities are limited to
 88 the application of cosmetics which are marketed to individuals and are readily
 89 commercially available to consumers.

90 (8) 'Esthetician' or 'esthetics operator' means an individual who, for compensation,
 91 engages in any one or a combination of the following practices, esthetics, or cosmetic
 92 skin care:

93 (A) Massaging the face, neck, décolletage, or arms of ~~a person~~ an individual;

94 (B) Trimming, tweezing, shaping, or threading eyebrows;

95 (C) Dyeing eyelashes or eyebrows or applying eyelash extensions; or

96 (D) Waxing, threading, stimulating, cleansing, or beautifying the face, neck, arms,
 97 ~~shoulders, back, chest, torso,~~ or legs of a person an individual by any method with the

98 aid of the hands or any mechanical or electrical apparatus or by the use of a cosmetic
99 preparation.

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

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

108 (A) Cuts or dresses the hair; or

109 (B) Singes and shampoos the hair, applies a permanent ~~or~~ relaxer or straightener to the
110 hair, or colors or dyes the hair.

111 (9.1) 'License' means a certificate of registration or other document issued by the board
112 or by the division director on behalf of the board pursuant to the provisions of this chapter
113 permitting an individual to practice in an occupation or operate a school.

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

116 (A) Shaving or trimming the beard;

117 (B) Cutting or dressing the hair;

118 (C) Giving facial or scalp massages;

119 (D) Giving facial or scalp treatment with oils or cream or other preparations made for
120 this purpose, either by hand or by means of mechanical appliances; or

121 (E) Singeing and shampooing the hair, coloring or dyeing the hair, or permanently
122 waving, relaxing, or straightening the hair.

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

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

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

131 (14) 'School of barbering' means any establishment that receives compensation for
132 training more than one individual in barbering. Technical colleges whose programs have
133 been approved by the Technical College System of Georgia or the Department of
134 Education are not ~~'barbering schools'~~ 'schools of barbering' within the meaning of this

135 chapter; provided, however, that all such colleges and their programs shall be considered
136 to be 'board approved.'

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

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

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

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

161 **SECTION 4.**

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

165 "43-10-6.

166 (a) The board is authorized to adopt reasonable rules and regulations prescribing the
167 sanitary requirements of beauty shops, beauty salons, barber shops, schools of
168 cosmetology, schools of esthetics, schools of hair design, schools of nail care, and schools
169 of barbering ~~subject to the approval of the Department of Public Health~~, and to cause the
170 rules and regulations or any subsequent revisions to be in suitable form; provided, however,

171 that nothing in this chapter shall prevent a county or municipal corporation from adopting
 172 ordinances, rules, or regulations governing a business or occupational tax license or
 173 certificate; health or facility regulations; zoning; local licensing; or the operation of such
 174 shops, salons, or schools in addition to any requirements that may be imposed on such
 175 shops, salons, or schools under this chapter or by the board. The board shall make ~~the~~ its
 176 rules and regulations available to the proprietor of each beauty shop, beauty salon, barber
 177 shop, school of cosmetology, school of esthetics, school of hair design, school of nail care,
 178 and school of barbering. It shall be the duty of every proprietor or person operating a
 179 beauty shop, beauty salon, barber shop, school of cosmetology, school of esthetics, school
 180 of hair design, school of nail care, and school of barbering in this state to keep a copy of
 181 such rules and regulations posted in a conspicuous place in such business, so as to be easily
 182 read by customers thereof. Posting such rules and regulations by electronic means shall
 183 be allowed.

184 (b) The board is authorized to adopt reasonable rules and regulations requiring that
 185 individuals issued ~~certificates of registration~~ licenses under this chapter undergo instruction
 186 on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome.

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

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

198 SECTION 5.

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

201 "(h)(1) On and after July 1, 2015, but prior July 1, 2018, any ~~applicant~~ individual
 202 applying for a certificate of registration pursuant to this Code section shall pass both a
 203 board approved written and ~~the~~ practical examination within a 24 month period after
 204 having obtained the required credit hours or shall be required to repeat all of such
 205 required credit hours before retaking the ~~examination~~ examinations. Should an applicant
 206 fail to pass either the written or ~~the~~ practical examination, the board or the board's

207 designee shall furnish the applicant a statement in writing, stating in what manner the
 208 applicant was deficient.

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

218 **SECTION 6.**

219 Said chapter is further amended by revising subsections (a) through (c) of Code Section
 220 43-10-12, relating to regulation and permits for schools, teachers and instructors, registration
 221 of apprentices, and certification as teacher by Department of Education, as follows:

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

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

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

229 (C) Keep permanently displayed a sign reading 'School of Cosmetology,' 'School of
 230 Hair Design,' 'School of Esthetics,' 'School of Nail Care,' or 'School of Barbering' as ~~the~~
 231 ~~case may be~~ applicable; and all such signs shall also display the words 'Service by

232 Students Only.' Where service is rendered by a student, no commissions or premiums
 233 shall be paid to such student for work done in the schools; nor shall any person
 234 individual be employed by the schools to render professional service to the public; and

235 (D) Provide transcripts to students upon graduation or withdrawal from the school,
 236 provided that all tuition and fees due to the school have been satisfied. Student records
 237 shall be maintained by the schools for a minimum of five years. If a school closes its
 238 business, the owner is required to provide copies of all student records, including, but
 239 not limited to, transcripts, to the ~~Non-Public Postsecondary Education Commission~~
 240 board within ~~thirty~~ 30 days of the school closure.

241 (2) All schools of cosmetology, schools of hair design, schools of esthetics, schools of
 242 nail care, and schools of barbering ~~are required to~~ shall keep in a conspicuous place as

243 determined by the board through rules and regulations in such schools a copy of the rules
 244 and regulations adopted by the board.

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

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

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

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

265 (1.1) All schools of hair design shall be required to teach the following courses: theory,
 266 permanent and cold hair waving, hair coloring, hair bleaching, hair relaxing, hair
 267 straightening, hair and scalp treatments, massaging the scalp, hair and scalp conditioning,
 268 hair cutting and shaping, hairdressing, shampooing, styling, comb out, reception, desk
 269 work, state law, board rules and regulations, and any other subjects related to hair design
 270 and sanitation;

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

277 (3) All schools of nail care shall be required to teach the following courses: theory,
 278 trimming, filing, shaping, decorating, sculpturing and artificial nails, nail care,

279 pedicuring, ~~charm~~, reception, desk work, ~~art and laboratory~~, state law, state board rules
 280 and regulations, and any other subjects related to nail care and sanitation; and
 281 (4) All schools of barbering shall be required to teach the following courses: theory, hair
 282 and scalp treatments, massaging the face, neck, and scalp, shampooing and conditioning,
 283 shaving, coloring of hair, hair cutting and styling, facial hair design ~~and~~, facial hair
 284 waxing, permanent and cold hair waving, hair relaxing, and hair straightening, chemical
 285 application, reception, desk work, state law, board rules and regulations, and any other
 286 subjects related to barbering and sanitation."

287 SECTION 7.

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

290 "43-10-16.

291 The board may bring an action to enjoin any person, ~~firm, or corporation~~ from engaging
 292 in barbering or the practice or the occupation of a cosmetologist, hair designer, esthetician,
 293 nail technician, master barber, or barber II if such person without being licensed ~~or~~
 294 ~~registered~~ to do so by the board; engages in or practices barbering or the practice or
 295 occupation of cosmetology a cosmetologist, hair designer, esthetician, nail technician,
 296 master barber, or barber II. The action shall be brought in the county in which such
 297 individual resides or, in the case of a firm or corporation, where the firm or corporation
 298 maintains its principal office; and, unless it appears that such person, ~~firm, or corporation~~
 299 so engaging or practicing in barbering or the practice or occupation of a cosmetologist, hair
 300 designer, esthetician, nail technician, master barber, or barber II is licensed ~~or registered~~,
 301 the injunction shall be issued, and such person; shall be perpetually enjoined from engaging
 302 or practicing in such activities throughout the state. It shall not be necessary in order to
 303 obtain the equitable relief provided in this Code section for the board to allege and prove
 304 that there is no adequate remedy at law. It is declared that the unlicensed activities referred
 305 to in this Code section are a menace and a nuisance dangerous to the public health, safety,
 306 and welfare."

307 SECTION 8.

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

310 "(a) If any ~~person~~ individual not lawfully entitled to a ~~certificate of registration license~~
 311 under this chapter shall practice the occupation of a ~~barber or cosmetologist~~, hair designer,
 312 esthetician, nail technician, master barber, or barber II; or if any such ~~person~~ individual
 313 shall endeavor to learn the trade of a ~~barber or cosmetologist~~, hair designer, esthetician, nail

314 technician, master barber, or barber II by practicing the same under the instructions of a
 315 ~~barber or cosmetologist, hair designer, esthetician, nail technician, master barber, barber~~
 316 II, or other ~~person individual~~, other than as provided in this chapter; or if any such person
 317 shall instruct or attempt to instruct any ~~person individual~~ in such trade; or if any proprietor
 318 of or person in control of or operating any beauty shop, beauty salon, school of
 319 cosmetology, school of hair design, school of esthetics, school of nail care, or school of
 320 barbering shall knowingly employ for the purpose of practicing such occupation any ~~barber~~
 321 ~~or cosmetologist, hair designer, esthetician, nail technician, master barber, or barber II~~ not
 322 ~~registered~~ licensed under this chapter; or if any person, beauty shop, beauty salon, barber
 323 shop, school of cosmetology, school of hair design, school of esthetics, school of nail care,
 324 or school of barbering shall engage in any of the acts covered in this chapter though not
 325 ~~registered~~ licensed under the provisions of this chapter; or if any ~~person individual~~ shall
 326 falsely or fraudulently pretend to be qualified under this chapter to practice or learn such
 327 trade or occupation; or if any person shall violate any provision of ~~the~~ this chapter for
 328 which a penalty is not specifically provided, such person shall be guilty of a misdemeanor."

329 **SECTION 9.**

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