

SB137 INTRODUCED



1 SB137

2 DEELTTH-1

3 By Senator Gudger

4 RFD: Fiscal Responsibility and Economic Development

5 First Read: 20-Feb-24



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SYNOPSIS:

Under existing law, termination dates are established for enumerated state agencies. The agencies are periodically reviewed by the Alabama Sunset Committee. After the review process is completed, the committee prepares its recommendations for the agencies to the Legislature in the form of sunset bills which either continue, terminate, or continue with modification each agency reviewed.

This bill would provide for the termination of the Alabama Board of Massage Therapy, the creation of a new Alabama Massage Therapy Licensing Board, and the transfer of all powers and responsibilities of the former board to the new board.

This bill would also provide for the temporary extension of the renewal date of any license or registration issued by the former board.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or



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29 provides a local source of revenue, to the entity for
30 the purpose.

31 The purpose or effect of this bill would be to
32 require a new or increased expenditure of local funds
33 within the meaning of the section. However, the bill
34 does not require approval of a local governmental
35 entity or enactment by a 2/3 vote to become effective
36 because it comes within one of the specified exceptions
37 contained in the section.

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A BILL

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TO BE ENTITLED

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AN ACT

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44 Relating to the Alabama Sunset Law; to terminate the
45 existence and functioning of the Alabama Board of Massage
46 Therapy; to create the Alabama Massage Therapy Licensing Board
47 pursuant to a new Chapter 43A, Title 34, Code of Alabama 1975;
48 to provide for the membership and organization of the new
49 board; to provide for the transfer of all powers, duties,
50 rights, records, and property from the former board to the new
51 board; to temporarily extend the renewal date of certain
52 licenses and registrations issued by the former board; to
53 repeal Chapter 43, Title 34, Code of Alabama 1975, providing
54 for the Alabama Board of Massage Therapy; and in connection
55 therewith would have as its purpose or effect the requirement
56 of a new or increased expenditure of local funds within the



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57 meaning of Section 111.05 of the Constitution of Alabama of
58 2022.

59 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

60 Section 1. Pursuant to the Alabama Sunset Law, the
61 Sunset Committee recommends the termination of the Alabama
62 Board of Massage Therapy, with the additional recommendation
63 for statutory change as set out in Section 3.

64 Section 2. The existence and functioning of the Alabama
65 Board of Massage Therapy, created and functioning pursuant to
66 Chapter 43 of Title 34, Code of Alabama 1975, is terminated,
67 and those code sections are expressly repealed.

68 Section 3. Chapter 43A is added to Title 34 of the Code
69 of Alabama 1975, to read as follows:

70 §34-43A-1. Short title.

71 This chapter shall be known and may be cited as the
72 Alabama Massage Therapy Licensing Act.

73 §34-43A-2. Definitions.

74 For purposes of this chapter, the following terms have
75 the following meanings:

76 (1) ADVERTISE. To distribute a card, flier, sign, or
77 device to any individual or entity, or allow any sign or
78 marking on any building, radio, television, or to publicize by
79 any other means designed to attract public attention.

80 (2) BOARD. The Alabama Massage Therapy Licensing Board
81 created by this chapter.

82 (3) EXAMINATION. The National Certification Board for
83 Therapeutic Massage and Bodywork Examination or the Federation
84 of State Massage Therapy Board's Massage and Bodywork



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85 Licensing Examination administered by an independent agency or
86 another nationally or internationally accredited examination
87 administered by an independent agency approved by the board,
88 or state examination administered by the board. The national
89 examination shall be accredited by the National Commission for
90 Certifying Agencies. The board may also administer a written,
91 oral, or practical examination.

92 (4) LICENSE. The credential issued by the board which
93 allows the holder to engage in the safe and ethical practice
94 of massage therapy.

95 (5) MASSAGE THERAPIST. An individual licensed pursuant
96 to this chapter who practices or administers massage therapy
97 or related touch therapy modalities to a patron for
98 compensation.

99 (6) MASSAGE THERAPY ESTABLISHMENT. A site, premises, or
100 business where massage therapy is practiced by a massage
101 therapist.

102 (7) MASSAGE THERAPY INSTRUCTOR. A massage therapist who
103 is approved by the board to teach the practice of massage
104 therapy.

105 (8) MASSAGE THERAPY or RELATED TOUCH THERAPY
106 MODALITIES. a. The mobilization of the soft tissue which may
107 include skin, fascia, tendons, ligaments, and muscles, for the
108 purpose of establishing and maintaining good physical
109 condition.

110 b. The term includes effleurage, petrissage,
111 tapotement, compression, vibration, stretching, heliotherapy,
112 superficial hot and cold applications, topical applications,



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113 or other therapy that involves movement either by hand,
114 forearm, elbow, or foot, for the purpose of therapeutic
115 massage, and any massage, movement therapy, massage
116 technology, myotherapy, massotherapy, oriental massage
117 techniques, structural integration, acupressure, or polarity
118 therapy.

119 c. The term massage therapy may include the external
120 application and use of herbal or chemical preparations and
121 lubricants including, but not limited to, salts, powders,
122 liquids, nonprescription creams, cups, mechanical devices such
123 as T-bars, thumpers, body support systems, heat lamps, hot and
124 cold packs, salt glow, steam cabinet baths, or hydrotherapy.

125 d. The term does not include laser therapy, microwave,
126 injection therapy, manipulation of the joints, or any
127 diagnosis or treatment of an illness that normally involves
128 the practice of medicine, chiropractic, physical therapy,
129 podiatry, nursing, midwifery, occupational therapy,
130 veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or
131 naturopathics.

132 (9) MASSAGE THERAPY SCHOOL. A school, approved by the
133 board, where massage therapy is taught and which is one of the
134 following:

135 a. If located in Alabama, approved by the board as
136 meeting the minimum established standards of training and
137 curriculum as determined by the board.

138 b. If located outside of Alabama, recognized by the
139 board and by a regionally recognized professional accrediting
140 body.



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141 c. A postgraduate training institute accredited by the
142 Commission on Massage Therapy Accreditation.

143 (10) SEXUALLY-ORIENTED BUSINESS. A sex parlor, massage
144 parlor, nude studio, modeling studio, love parlor, adult
145 bookstore, adult movie theater, adult video arcade, adult
146 motel, or other commercial enterprise which has the offering
147 for sale, rent, or exhibit, or the exhibit of, items or
148 services intended to provide sexual stimulation or sexual
149 gratification to the patron.

150 (11) STUDENT. Any individual who is enrolled in a
151 massage therapy school.

152 §34-43A-3. Regulated activities.

153 Except as specifically provided by this chapter, no
154 individual may do any of the following unless licensed
155 pursuant to this chapter:

156 (1) Advertise that he or she performs massage therapy
157 or related touch therapy modalities.

158 (2) Hold himself or herself out to the public as a
159 massage therapist, using any name or description denoting
160 himself or herself as a massage therapist, or purporting to
161 have the skills necessary to perform massage therapy.

162 (3) Practice massage therapy.

163 §34-43A-4. Exemptions.

164 (a) The following individuals, offices, and
165 establishments are exempt from this chapter:

166 (1) A student who is rendering massage therapy services
167 under the supervision of a massage therapy instructor, or any
168 other supervisory arrangement recognized and approved by the



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169 board including, but not limited to, a temporary permit. A
170 student shall be designated by title clearly indicating his or
171 her training status.

172 (2) A qualified member of another profession who is
173 licensed and regulated under state law while in the course of
174 rendering services within the scope of his or her license,
175 provided that the individual does not represent himself or
176 herself as a massage therapist.

177 (3) An individual providing massages to his or her
178 immediate family.

179 (4) An individual offering massage therapy instruction
180 who is visiting from another state, territory, or country,
181 provided that the individual is licensed or registered as
182 required in his or her place of residence. A visiting
183 instructor may teach continuing education courses in this
184 state for up to 100 hours per year without being licensed by
185 the board. A visiting instructor who teaches continuing
186 education courses in this state for 100 hours or more per year
187 is required to be licensed by the board.

188 (5) Members of the Massage Emergency Rescue Team
189 (MERT), or any other nationally or internationally recognized
190 disaster relief association, who practice massage therapy in
191 this state only during a time declared by the Governor or the
192 Legislature to be a city, county, or state emergency. These
193 therapists may work in this state for a period of time
194 approved by the board.

195 (6) A Native American healer using traditional healing
196 practices. A Native American healer who applies to the board



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197 for a massage therapist license shall comply with all
198 licensing requirements.

199 (7) An individual acting under the supervision of a
200 physician, a physical therapist, or a chiropractor within the
201 scope of his or her license, provided that the individual does
202 not represent himself or herself as a massage therapist.

203 (8) The office of a chiropractor, physician, or
204 physical therapist which employs or contracts with a massage
205 therapist who is exempt from an establishment license.

206 (b) Nothing in this chapter shall be construed to
207 authorize massage therapists to administer, dispense, or
208 prescribe drugs, or engage in the practice of medicine in any
209 manner including, but not limited to, nutrition, diagnosing or
210 prescribing drugs for mental, emotional, or physical disease,
211 illness, or injury.

212 §34-43A-5. Alabama Massage Therapy Licensing Board.

213 (a) (1) There is created the Alabama Massage Therapy
214 Licensing Board. The purpose of the board is to protect the
215 health, safety, and welfare of the public by ensuring that
216 massage therapists, massage therapy schools, and massage
217 therapy instructors meet prescribed standards of education,
218 competency, and practice. To accomplish this mission, the
219 board shall establish standards to ensure completion of all
220 board functions in a timely and effective manner and to
221 provide open and immediate access to all relevant public
222 information. The board shall communicate its responsibilities
223 and services to the public as part of its consumer protection
224 duties. The board shall develop and implement a long range



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225 plan to ensure effective regulation and consumer protection.

226 (2) All rights, duties, records, property, real or
227 personal, and all other effects existing in the name of the
228 Alabama Board of Massage Therapy, formerly created and
229 functioning pursuant to Chapter 43, or in any other name by
230 which that board has been known, shall continue in the name of
231 the Alabama Massage Therapy Licensing Board. Any reference to
232 the former Alabama Board of Massage Therapy, or any other name
233 by which that board has been known, in any existing law,
234 contract, or other instrument shall constitute a reference to
235 the Alabama Massage Therapy Licensing Board as created in this
236 chapter. All actions of the former Alabama Board of Massage
237 Therapy or the executive director of the former board done
238 prior to June 1, 2024, are approved, ratified, and confirmed.

239 (3) The status of any individual or entity properly
240 licensed or registered by the former Alabama Board of Massage
241 Therapy on June 1, 2024, shall continue under the jurisdiction
242 of the Alabama Massage Therapy Licensing Board. Any license or
243 registration subject to renewal on or before October 1, 2024,
244 pursuant to this chapter shall be temporarily extended by
245 three months unless and until otherwise provided by rule of
246 the board.

247 (b) (1) The board shall consist of the following nine
248 members:

249 a. Three active licensees appointed by the Governor.

250 b. Two active licensees and one at-large member
251 appointed by the Lieutenant Governor.

252 c. Two active licensees and one at-large member



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253 appointed by the Speaker of the House of Representatives.

254 (2) The seven active massage therapist licensee members
255 of the board shall be appointed so that not more than one
256 active licensee member from each United States Congressional
257 District in the state is appointed to serve at the same time.
258 The two members appointed from the state at large shall have
259 never been licensed as massage therapists nor have had any
260 direct financial interest in the massage therapy profession.
261 One of the at-large members shall have extensive knowledge of
262 sex trafficking and related law enforcement efforts to defeat
263 sex trafficking. The at-large member appointed by the
264 Lieutenant Governor and the at-large member appointed by the
265 Speaker of the House of Representatives shall be appointed
266 from a list of three names each provided by the Minority
267 Leader of the Senate and the Minority Leader of the House of
268 Representatives, respectively. The appointing authorities
269 shall coordinate their appointments to assure the board
270 membership is inclusive and reflects the racial, gender,
271 geographic, urban, rural, and economic diversity of the state.

272 (3) The members initially appointed to the board shall
273 be appointed not later than July 1, 2024. Each board member
274 shall be selected upon personal merit and qualifications, not
275 per membership or affiliation with an association. Each board
276 member shall be a citizen of the United States and a resident
277 of this state for two years immediately preceding appointment.
278 No member of the board shall serve more than two full
279 consecutive terms.

280 (c) Of the initial nine appointees to the board, three



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281 members shall be appointed for terms of two years, three
282 members shall be appointed for terms of three years, and three
283 members shall be appointed for terms of four years as
284 determined by lottery. Thereafter, successors shall be
285 appointed for terms of four years, each term expiring on June
286 30.

287 (d) Vacancies on the board occurring prior to the
288 expiration of a term shall be filled by the original
289 appointing authority within 30 days after the vacancy, to
290 serve for the remainder of the unexpired term. Each member of
291 the board shall serve until his or her successor has been duly
292 appointed and qualified.

293 (e) The board shall hold its first meeting within 30
294 days after the initial members are appointed. At the first
295 meeting, and annually thereafter in the month of October, the
296 board shall elect a chair and a vice chair from its
297 membership. The board shall hold two biannual meetings for the
298 purpose of reviewing license applications. The board may hold
299 additional meetings at the discretion of the chair and four
300 members of the board. A quorum of the board shall be a
301 majority of the current appointed board members. Upon the
302 written request of any individual, submitted to the board at
303 least 24 hours in advance of a scheduled meeting, the meeting
304 shall be recorded in a manner established by the Secretary of
305 State.

306 (f) Board members shall not receive compensation for
307 their services, but shall receive the same per diem and
308 allowance as provided to state employees for each day the



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309 board meets and conducts business.

310 (g) (1) The board may employ, and at its pleasure
311 discharge, an executive secretary and other officers and
312 employees as necessary to implement this chapter. The
313 executive secretary, subject to the approval of the board,
314 shall also outline the duties and fix the compensation and
315 expense allowances of each employee of the board. The
316 compensation of the executive secretary shall not be increased
317 without the prior approval of the Sunset Committee.

318 (2) When necessary, the board may retain outside
319 counsel who satisfies the qualifications required of a deputy
320 attorney general.

321 (h) An affirmative vote of a majority of the members of
322 the board shall be required to grant, suspend, or revoke a
323 license to practice massage therapy or a license to operate a
324 massage therapy establishment.

325 (i) The board shall be financed only from income
326 accruing to the board from fees, licenses, other charges and
327 funds collected by the board, and any monies that are
328 appropriated to the board by the Legislature.

329 (j) A board member may be removed at the request of the
330 board for misfeasance, malfeasance, neglect of duty,
331 commission of a felony, incompetence, permanent inability to
332 perform official duties, or failing to attend two consecutive
333 properly noticed meetings within a one-year period.

334 (k) Members of the board are immune from liability for
335 all good faith acts performed in the execution of their duties
336 as members of the board.



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337 (1) Appointees to the board shall take the
338 constitutional oath of office and shall file the oath in the
339 office of the Governor before undertaking any duties as a
340 board member. Upon receiving the oath, the Governor shall
341 issue a certificate of appointment to each appointee.

342 §34-43A-6. Powers and duties of board.

343 (a) The board shall do all of the following:

344 (1) Qualify applicants to take the licensing
345 examination and issue licenses to successful applicants.

346 (2) Adopt a seal and affix the seal to all licenses
347 issued by the board. All licenses shall be on pre-printed,
348 sequentially numbered certification forms.

349 (3) Create application forms for examination and
350 licensing and assess and collect fees pursuant to this
351 chapter.

352 (4) Maintain a complete record of all massage
353 therapists and annually prepare a roster of the names and
354 addresses of those licensees. A copy of the roster shall be
355 provided to any individual upon request and the payment of a
356 fee established by the board in an amount sufficient to cover
357 the costs of publication and distribution.

358 (5) Provide for the investigation of any individual who
359 is suspected of violating this chapter.

360 (6) Adopt and revise rules as necessary to implement
361 this chapter pursuant to the Administrative Procedure Act. All
362 administrative rules of the former Alabama Board of Massage
363 Therapy existing on June 1, 2024, which reference Chapter 43,
364 shall remain in effect as rules of the Alabama Massage Therapy



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365 Licensing Board until amended or repealed by that board.

366 (7) Provide a copy of this chapter to all licensees and
367 applicants for a license.

368 (8) By rule, require massage therapists, massage
369 therapy establishments, and massage therapy schools to carry
370 professional and general liability insurance with an "A" rated
371 or better insurance carrier in the amount of at least one
372 million dollars (\$1,000,000). Proof of coverage shall be
373 provided to the board upon request.

374 (9) Perform other functions necessary and proper for
375 the performance of official duties.

376 (b) The board may do any of the following:

377 (1) Accept or deny the application of any individual
378 applying for a license as a massage therapist upon an
379 affirmative vote of a majority of the board.

380 (2) By rule, establish criteria for certifying massage
381 therapy instructors.

382 (3) Adopt an annual budget and authorize necessary
383 expenditures from fees and other available appropriations. The
384 expenditures of the board may not exceed the revenues of the
385 board in any fiscal year.

386 (4) Adopt a code of ethics.

387 (5) Provide for the inspection of the business premises
388 of any licensee during normal business hours.

389 (6) Establish a list of approved massage therapy
390 schools.

391 §34-43A-7. License required; sexually-oriented
392 businesses; limitations on advertising or offers of service.



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393 (a) No individual may perform the duties of a massage
394 therapist unless he or she holds a valid license issued by the
395 board.

396 (b) A massage therapist may not perform massage therapy
397 for a sexually-oriented business, and shall be subject to all
398 sections of Article 3 of Chapter 12 of Title 13A.

399 (c) A massage therapist may not advertise or offer to
400 perform services outside the scope of his or her expertise,
401 experience, and education for any client who is ill or has a
402 physical dysfunction, unless the services are performed in
403 conjunction with a licensed physician, physical therapist, or
404 chiropractor.

405 (d) A massage therapist or massage therapy
406 establishment may not advertise or offer to perform services
407 on any sexually explicit website or online platform that
408 promotes prostitution, sexually explicit services, or human
409 trafficking.

410 §34-43A-8. Application for license; licensing
411 requirements.

412 (a) An individual desiring to be licensed as a massage
413 therapist shall apply to the board on forms provided by the
414 board. Unless licensed pursuant to subsection (b), an
415 applicant for a license shall submit evidence satisfactory to
416 the board that he or she has met all of the following
417 requirements:

418 (1)a. Completed a minimum of 650 hours of instruction
419 which shall consist of all of the following:

420 1. One hundred hours of anatomy and physiology,



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421 including 35 hours of myology, 15 hours of osteology, 10 hours
422 of circulatory system, and 10 hours of nervous system, with
423 the remaining 30 hours addressing other body systems at the
424 discretion of the massage therapy school.

425 2. Two hundred fifty hours of basic massage therapy,
426 the contradistinctions of massage therapy, and related touch
427 therapy modalities, including a minimum of 50 hours of
428 supervised massage.

429 3. Fifty hours of business, hydrotherapy, first aid,
430 cardiopulmonary resuscitation, professional ethics, and state
431 massage therapy laws.

432 4. Two hundred fifty hours of electives as determined
433 by the massage therapy school.

434 b. The board, by rule, may increase the minimum number
435 of hours of instruction required for a license, not to exceed
436 the number of hours recommended by the National Certification
437 Board for Therapeutic Massage and Bodywork.

438 c. In addition to paragraphs a. and b., to perform
439 therapeutic massage on an animal, a massage therapist shall
440 have also graduated from a nationally approved program and
441 completed at least 100 hours of postgraduate training and
442 education in animal anatomy, pathology, and physiology for the
443 specific type of animal upon which he or she will perform
444 therapeutic massage.

445 (2) Successfully passed a state board exam or a
446 national standardized examination approved by the board. The
447 board may approve other state exams on a case-by-case basis.

448 (3) Completed a criminal history background check as



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449 required by the board which spans the lifetime of the
450 applicant.

451 (4) Paid all applicable fees.

452 (b) Notwithstanding the requirements listed in
453 subdivisions (1) and (2) of subsection (a), the board may
454 license an applicant who is licensed or registered to practice
455 massage therapy in another state if the standards of practice
456 or licensing of that state, at the time the applicant was
457 originally licensed or registered, were equal to or stricter
458 than the requirements imposed by this chapter. All applicants
459 may be subject to an initial in-person board hearing
460 determined by the board.

461 (c) Upon receipt of an application, the board shall
462 notify the applicant that his or her application is pending
463 and shall also notify the applicant upon the approval or
464 rejection of his or her application. If an application is
465 rejected, the board shall notify the applicant of the reasons
466 for the rejection.

467 §34-43A-9. Licensing of massage therapy establishments;
468 initial inspection.

469 (a) No massage therapy establishment shall operate in
470 this state without a license issued by the board.

471 (b) A sexually-oriented business may not operate as a
472 massage therapy establishment or be licensed by the board
473 pursuant to this chapter.

474 (c) A massage therapy establishment shall contract with
475 or employ only licensed massage therapists to perform massage
476 therapy. Every massage therapist shall be registered with the



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477 board and one of them shall be designated as the individual
478 who will ensure that the massage therapy establishment
479 complies with state law and all applicable administrative
480 rules.

481 (d) A massage therapy establishment license is not
482 assignable or transferable.

483 (e) If the holder of a massage therapy establishment
484 license moves the location of the massage therapy
485 establishment without changing either the name or ownership of
486 that massage therapy establishment, the board shall waive the
487 new establishment license fee, if documentation set by rule of
488 the board is approved. This subsection shall not change the
489 expiration date of a massage therapy establishment license.

490 (f) (1) Except as provided in subdivision (2), each
491 applicant for a massage therapy establishment license shall
492 complete a criminal history background check pursuant to rules
493 adopted by the board.

494 (2) An applicant for a massage therapy establishment
495 license, who is a massage therapist and has completed a
496 criminal history background check as required by the board
497 within the preceding two years, is exempt from completing the
498 criminal history background check required in subdivision (1).

499 (g) The physical location of a proposed massage therapy
500 establishment shall be subject to an initial inspection by the
501 board before a massage therapy establishment license is
502 granted to the applicant.

503 (h) If the physical location of a massage therapy
504 establishment has been shut down by the board or by local,



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505 state, or federal law enforcement, the physical location is
506 permanently prohibited from being licensed or operating as a
507 massage therapy establishment.

508 §34-43A-10. Application forms; issuance of license;
509 display of license.

510 (a) Applications for licensing and renewal of a license
511 shall be on forms provided by the board and shall be
512 accompanied by the applicable fee. A recent two-by-two inch
513 photograph showing a frontal view of the head and shoulders of
514 the applicant, taken no more than six months earlier, shall be
515 submitted with each application. All documents shall be
516 submitted in English.

517 (b) Each applicant for a license shall complete a
518 criminal history background check pursuant to rules adopted by
519 the board. The board may deny the application of any applicant
520 who refuses to complete the criminal history background check
521 as required by the board.

522 (c) The board shall issue a license, on a pre-printed
523 sequentially numbered form, to each individual who qualifies
524 to be a massage therapist and to each qualified applicant for
525 a massage therapy establishment license. To be qualified for a
526 license as a massage therapist the applicant shall
527 successfully pass the applicable examination, pay the
528 appropriate examination fee, complete a criminal history
529 background check pursuant to rules adopted by the board, pay
530 the criminal history background check fee, and pay the license
531 fee. A license grants all professional rights, honors, and
532 privileges relating to the practice of massage therapy.



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533 (d) Each massage therapist shall display his or her
534 license in the manner specified by the board. Each massage
535 therapy establishment shall prominently post its license, and
536 the license of each massage therapist who practices within the
537 massage therapy establishment, in plain sight at the massage
538 therapy establishment.

539 (e) A license is the property of the board and shall be
540 surrendered upon demand of the board.

541 §34-43A-11. License renewal; reinstatement.

542 (a) Each license shall be renewed biennially, on or
543 before the anniversary date, by forwarding to the board a
544 renewal application accompanied by the renewal fee. Except as
545 provided in Section 34-43A-5(a)(3), any license not renewed
546 biennially on or before the anniversary date shall expire.

547 (b) Each licensee, upon application for renewal of a
548 license, shall do both of the following:

549 (1) Submit evidence of satisfactory completion of the
550 continuing education requirements pursuant to Section
551 34-43A-19.

552 (2) Complete a new criminal history background check
553 pursuant to rules adopted by the board. The board may deny the
554 application for renewal of any licensee who refuses to
555 complete a criminal history background check as required by
556 the board.

557 (c) Licenses are valid for two years from the date of
558 issuance. An individual whose license has expired and who has
559 ceased to practice massage therapy for a period of not longer
560 than five years may have his or her license reinstated upon



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561 payment of a renewal fee, payment of a reactivation fee,
562 payment of a late fee, and the submission of a renewal
563 application and evidence satisfactory to the board that the
564 applicant has fulfilled continuing education requirements,
565 completed a criminal history background check, paid the
566 criminal history background check fee, and passed the
567 examination.

568 (d) Subsequent to an official complaint, the board may
569 request a criminal history background check of the licensee
570 through the district attorney of the circuit in which the
571 licensee is located.

572 §34-43A-12. Alabama Massage Therapy Licensing Board
573 Fund.

574 (a) The board, by rule, shall assess and collect all of
575 the following fees not to exceed:

576 (1) One hundred dollars (\$100) for an initial massage
577 therapist license.

578 (2) One hundred dollars (\$100) for a biennial license
579 renewal postmarked or received at the office of the board on
580 or before the expiration date of the license.

581 (3) One hundred dollars (\$100) for an initial, and
582 fifty dollars (\$50) for any renewal of, a massage therapy
583 establishment license.

584 (4) One hundred fifty dollars (\$150) for an initial
585 registration, and any renewal registration, as a massage
586 therapy school in this state.

587 (5) One hundred dollars (\$100) to register and renew
588 registration as a massage therapy instructor in this state.



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589 (6) Seventy-five dollars (\$75) to reactivate an expired
590 license.

591 (7) Twenty-five dollars (\$25) shall be added to any
592 license fees not postmarked or received at the office of the
593 board on or before the expiration date of the license.

594 (8) Ten dollars (\$10) for a duplicate license
595 certificate or a name change on a license certificate. The
596 board may issue a duplicate certificate for each massage
597 therapy establishment on file with the board where the massage
598 therapist practices massage therapy. The board may issue
599 additional duplicate certificates only after receiving a sworn
600 letter from the massage therapist that an original certificate
601 was lost, stolen, or destroyed. The board shall maintain a
602 record of each duplicate certificate issued.

603 (b) Necessary administrative fees may be charged by the
604 board including, but not limited to, reasonable costs for
605 copying, labels, and lists, and the actual costs for
606 completing a criminal history background check. Examination
607 and license fees may be adjusted by rule of the board.

608 (c) Commencing on June 1, 2024, the name of the
609 separate special revenue trust fund in the State Treasury
610 known as the Alabama Board of Massage Therapy Fund shall be
611 renamed and then known as the Alabama Massage Therapy
612 Licensing Board Fund. All receipts collected by the board
613 under this chapter shall be deposited in this fund and used
614 only to carry out this chapter. Receipts shall be disbursed
615 only by warrant of the Comptroller, upon itemized vouchers
616 approved by the chair of the board. No funds shall be



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617 withdrawn except as budgeted and allotted according to
618 Sections 41-4-80 to 41-4-96, inclusive, 41-19-1, and 41-19-12,
619 and only in amounts as stipulated in the general
620 appropriations bill or other appropriations bills.

621 §34-43A-13. Complaints; grounds for suspension,
622 revocation, etc., of license; penalties; rulemaking authority.

623 (a) Any individual may file with the board a written
624 complaint regarding an allegation of impropriety by a massage
625 therapist, massage therapy establishment, or other individual.
626 Complaints shall be made in the manner prescribed by the
627 board. Complaints received by the board shall be referred to a
628 standing investigative committee consisting of a board member,
629 the executive director, the board attorney, and the board
630 investigator. If no probable cause is found, the investigative
631 committee may dismiss the charges and prepare a statement, in
632 writing, of the reasons for that decision. If found guilty,
633 the board shall turn all records relating to the investigation
634 over to local law enforcement.

635 (b) If probable cause is found, the board shall
636 initiate an administrative proceeding. Upon a finding that the
637 licensee has committed any of the following misconduct, the
638 board may suspend, revoke, or refuse to issue or renew a
639 license or impose a civil penalty after notice and opportunity
640 for a hearing pursuant to the Administrative Procedure Act:

641 (1) The license was obtained by means of fraud,
642 misrepresentation, fraudulent transcripts, invalidated exam
643 scores, or concealment of material facts, including making a
644 false statement on an application or any other document



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645 required by the board for licensing.

646 (2) The licensee sold or bartered or offered to sell or
647 barter a license for a massage therapist or a massage therapy
648 establishment.

649 (3) The licensee has engaged in unprofessional conduct
650 that has endangered or is likely to endanger the health,
651 safety, and welfare of the public, as defined by the rules of
652 the board.

653 (4) The licensee has been convicted of a felony or of
654 any crime arising out of or connected with the practice of
655 massage therapy.

656 (5) The licensee has violated or aided and abetted in
657 the violation of this chapter.

658 (6) The licensee is adjudicated as mentally incompetent
659 by a court of law.

660 (7) The licensee uses controlled substances or
661 habitually and excessively uses alcohol.

662 (8) The licensee engaged in false, deceptive, or
663 misleading advertising.

664 (9) The licensee engaged in or attempted to or offered
665 to engage a client in sexual activity, including, but not
666 limited to, genital contact, within the client-massage
667 therapist relationship.

668 (10) The licensee has knowingly allowed the massage
669 therapy establishment to be used as an overnight sleeping
670 accommodation.

671 (11) The licensee had a license revoked, suspended, or
672 denied in any other territory or jurisdiction of the United



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673 States for any act described in this section.

674 (12) The applicant or licensee was convicted of
675 impersonating a massage therapist in another jurisdiction.

676 (c) (1) An individual governed by this chapter, who has
677 a reasonable belief that another massage therapist has
678 violated this chapter, shall inform the board in writing
679 within 30 calendar days after the date the individual
680 discovers this activity. Upon finding that an individual has
681 violated this subsection, the board shall alert local law
682 enforcement and may do any of the following:

683 a. Impose an administrative fine of not more than ten
684 thousand dollars (\$10,000) according to a disciplinary
685 infraction fine schedule adopted by rule of the board.

686 b. Suspend or revoke the individual's license to
687 practice massage therapy.

688 (2) Upon a finding that an individual has violated this
689 subsection, shall impose a mandatory license suspension and a
690 fine of ten thousand dollars (\$10,000).

691 (d) The license of any individual who has been
692 convicted of, or has entered a plea of nolo contendere to, a
693 crime or offense involving prostitution or any other type of
694 sexual offense shall be permanently revoked by the board
695 according to the Administrative Procedures Act.

696 (e) The massage therapy establishment license of any
697 massage therapy establishment wherein an individual has been
698 convicted of, or entered a plea of nolo contendere to, an
699 offense involving prostitution or any other type of sexual
700 offense against a client, or which the board determines is a



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701 sexually-oriented business, shall be permanently revoked by
702 the board according to the Administrative Procedures Act.

703 (f) (1) Upon a finding that an individual, who is
704 governed by this chapter, has performed massage therapy
705 without having obtained a license, the board may do any of the
706 following:

707 a. Impose an administrative fine of not more than ten
708 thousand dollars (\$10,000).

709 b. Issue a cease and desist order.

710 c. Petition the circuit court of the county where the
711 act occurred to enforce the cease and desist order and collect
712 the assessed fine.

713 (2) Any individual aggrieved by any adverse action of
714 the board may appeal the action to the Circuit Court of
715 Montgomery County.

716 (g) The board shall present any incident of misconduct
717 to the local district attorney for review and appropriate
718 action.

719 (h) The board may adopt rules to implement and
720 administer this section.

721 §34-43A-14. Use of words massage or bodywork or other
722 advertising descriptions by unlicensed individuals.

723 An individual who does not hold a license as a massage
724 therapist, physical therapist, chiropractor, or athletic
725 trainer, or a license for a massage therapy establishment,
726 shall not use the words massage or bodywork on any sign or
727 other form of advertising describing services performed by the
728 individual or within the establishment. Any advertisement by a



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729 massage therapist or massage therapy establishment shall
730 contain the license number of the massage therapist or massage
731 therapy establishment.

732 §34-43A-15. Criminal penalties.

733 Any individual who violates this chapter shall be
734 guilty of a Class C misdemeanor.

735 §34-43A-16. Injunction; civil penalty.

736 (a) In addition to the criminal penalty prescribed by
737 this chapter, the board may seek an injunction against any
738 individual or establishment in violation of this chapter.

739 (b) In an action for an injunction, the board may
740 demand and recover a civil penalty of fifty dollars (\$50) per
741 day for each violation, reasonable attorney fees, and court
742 costs.

743 §34-43A-17. Construction with other regulations.

744 (a) Except as otherwise provided in subsection (b),
745 this chapter shall supersede any regulation adopted by a
746 political subdivision of the state related to the licensing or
747 regulation of massage therapists and massage therapy
748 establishments.

749 (b) This section shall not affect:

750 (1) Local regulations relating to zoning requirements
751 or occupational license taxes pertaining to massage therapists
752 and massage therapy establishments.

753 (2) Local regulations that do not relate to the
754 practice of massage therapy by qualified individuals.

755 (c) A county, or a municipality within its
756 jurisdiction, may regulate individuals licensed pursuant to



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757 this chapter. Regulation shall be consistent with this chapter
758 and shall not supersede this chapter. This section shall not
759 be construed to prohibit a county or municipality from
760 regulating individuals not licensed pursuant to this chapter.

761 §34-43A-18. Massage therapy schools; instructors.

762 (a) To be approved by the board, a massage therapy
763 school shall meet all of the following requirements:

764 (1) Submit to the board a completed application
765 prescribed by the board and the registration fee specified in
766 Section 34-43A-12.

767 (2) Provide documentation of a curriculum which
768 includes a minimum number of required hours of instruction in
769 the subjects required by Section 34-43A-8.

770 (3) Register annually with the board by submitting a
771 renewal form, the renewal fee specified in Section 34-43A-12,
772 and a then current curriculum and list of active massage
773 therapy instructors teaching at the school.

774 (b) Every massage therapy instructor teaching a course
775 in massage therapy at a massage therapy school located in this
776 state shall be licensed by the board as a massage therapist
777 and registered as a massage therapy instructor. Instructors
778 who are not teaching massage therapy do not need to be
779 registered. An adjunct massage therapy instructor shall be
780 dually licensed in the state where he or she resides or be
781 nationally certified, or both.

782 (c) An applicant for registration as a massage therapy
783 instructor shall satisfy all of the following requirements:

784 (1) Be currently licensed as a massage therapist in



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785 this state.

786 (2) Submit to the board a completed application as
787 prescribed by the board and the one-time application fee
788 specified in Section 34-43A-12.

789 (3) Submit documentation of three years of experience
790 in the practice of massage therapy. The documentation may be
791 considered by the board on a case-by-case basis.

792 §34-43A-19. Sunset provision; continuing education.

793 (a) The board is subject to the Alabama Sunset Law of
794 1981, and is classified as an enumerated agency pursuant to
795 Section 41-20-3. The board shall automatically terminate on
796 October 1, 2025, and every four years thereafter, unless
797 continued pursuant to the Alabama Sunset Law.

798 (b) The board shall adopt a program of continuing
799 education for licensees which shall be a requisite for the
800 renewal of licenses issued pursuant to this chapter and not
801 exceed the requirements of a board-approved nationally
802 recognized board certification organization such as the
803 National Certification Board for Therapeutic Massage and
804 Bodywork.

805 Section 4. The Legislature concurs in the
806 recommendations of the Sunset Committee as provided in
807 Sections 1, 2, and 3.

808 Section 5. Although this bill would have as its purpose
809 or effect the requirement of a new or increased expenditure of
810 local funds, the bill is excluded from further requirements
811 and application under Section 111.05 of the Constitution of
812 Alabama of 2022, because the bill defines a new crime or



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813 amends the definition of an existing crime.

814 Section 6. This act shall become effective June 1,

815 2024.