



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 136 (Substitute S-5 as passed by the Senate)

Sponsor: Senator Tom George

Committee: Education

Date Completed: 3-28-05

RATIONALE

"Diploma mills" are substandard or fraudulent colleges that provide college and graduate "degrees" to individuals in exchange for a flat fee and little, if any, coursework. The procurer of such a degree can use it to pad a resume, obtain a license, or profit from a raise or promotion at work. Diploma mills have existed for at least 130 years, but have proliferated with the advent of the internet. While valid distance-learning colleges do exist on-line (and off-line), many evidently are scams. It has been pointed out that diploma mills not only mislead some of their customers, but also may jeopardize consumers who rely on individuals posing as physicians, attorneys, and other professionals. It also has been suggested that diploma mills may threaten legitimate institutions if they are confused with the bogus schools.

Currently, no Federal law specifically prohibits diploma mills or penalizes their "graduates". In part, this is because the Federal government plays a minimal role in regulating colleges and universities, leaving the states to assume varying degrees of control over their higher educational institutions. Some people believe that Michigan should prohibit manufacturing or issuing a false diploma or credential, and penalize those who produce the false documents or use them for their own gain.

CONTENT

The bill would create the "Authentic Credentials in Education Act" to prohibit a person from issuing or using a false academic credential, or claiming to have an academic credential he or she did not have. A person harmed by a

violation of the bill could bring a civil action to recover damages.

Specifically, the bill would prohibit a person from knowingly issuing or manufacturing a false academic credential in this State. Also, an individual would be prohibited from knowingly using a false academic credential to obtain employment; to obtain a promotion or higher compensation in employment; to obtain admission to a qualified institution; or in connection with any loan, business, trade, profession, or occupation.

Further, an individual who did not have an academic credential would be prohibited from knowingly using or claiming to have that academic credential to obtain employment or a promotion or higher compensation in employment; to obtain admission to a qualified institution; or in connection with any loan, business, trade, profession, or occupation.

A person damaged by a violation of the bill could bring a civil action and could recover costs, reasonable attorney fees, and the greater of either the person's actual damages or \$10,000.

"Academic credential" would mean a degree or a diploma, transcript, educational or completion certificate, or similar document that indicated completion of a program of study or instruction, or completion of one or more courses at an institution of higher education, or the grant of an associate, bachelor, master, or doctoral degree. "False academic credential" would mean an academic credential issued or manufactured

by a person other than a qualified institution.

"Qualified institution" would mean an institution of higher education, as that term is defined in Title 20, Section 1001 of the United States Code (20 USC 1001), or any other institution of higher education authorized to do business in the State.

(Under 20 USC 1001, "institution of higher education" means an educational institution in any state that meets all of the following criteria:

- Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.
- Is legally authorized within the state to provide a program of education beyond secondary education.
- Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree; or is a school that provides at least a one-year program of training to prepare students for gainful employment in a recognized occupation.
- Is a public or other nonprofit institution.
- Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the U.S. Secretary of Education for the granting of pre-accreditation status, and the Secretary has determined that there is a satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

The term also includes a public or nonprofit private educational institution that admits as regular students persons who are beyond the age of compulsory school attendance in the state in which the institution is located (in lieu of admitting only persons with a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate).)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A typical diploma mill advertises itself on a webpage with impressive pictures of libraries, classrooms, and other educational facilities. These photos, however, usually are lifted from other websites of legitimate universities, disguising the fact that the university is a small office with a post office box. The anonymous nature of the internet allows the diploma mills to disappear and reappear quickly under a different "university" name. Five years ago, in an article in *Wired News* (3-23-2000), an expert on the subject, John Bear, estimated that between 200 and 300 diploma mills exist at any one time, and that they take in a combined average of \$200 million a year.

Professionals from many fields have purchased fraudulent diplomas. In May and September 2004, the United States Senate held hearings on the subject of diploma mills. During the hearings, it was revealed that many Federal employees had purchased their degrees from substandard or phony universities, and that a few had used Federal funds to pay for their "continuing education". One such person was a program manager who held a fraudulent doctorate in occupational health and safety; he helped coordinate responses to the Sept 11th attacks and the anthrax contamination at the Capitol. Also discovered were senior-level employees in the Departments of Education, Energy, Transportation, and Homeland Security who held degrees from unaccredited schools.

Professionals with fraudulent credentials pose a risk to a public that trusts them with their children, their education, and their safety. According to U.S. Senate committee testimony, one victim was a North Carolina girl, whose mother took her to a medical specialist for complications with the girl's diabetes. Reportedly, after the "doctor", with his purchased credentials, advised the eight-year-old to stop taking insulin, she went into shock and died.

Diploma mills also threaten legitimate distance learning institutions, whose enrollment and reputations may suffer if

they are confused with bogus schools. International students looking for a legitimate distance learning school may be easier to steer into a diploma mill. Their limited knowledge of the United States educational system and, sometimes, of the language, makes them prime targets for diploma mill scams.

One of the reasons diploma mills thrive is that there is no legislation banning them outright. The bill would fill this gap in the law by prohibiting the manufacture of a false academic credential. The bill also would reduce the demand for diploma mills by permitting victimized employers, lending institutions, consumers, patients, or others to sue, and recover their costs and damages from, those who knowingly used or manufactured false credentials.

Supporting Argument

Due to the lack of Federal regulation, some states allow almost anyone to operate a college, which in turn is free to design its own coursework, methods of assessment, and degree qualifications. As a result, institutions of higher education have sought quality control through the practice of accreditation, which they seek from regional accreditation boards. These boards provide a nongovernmental, peer evaluation of educational institutions and programs. (In Michigan and in 17 other states, that entity is the North Central Association Commission on Accreditation and School Improvement, also known as NCA.) The U.S. Department of Education's role in accreditation is limited to the publication of a list of nationally-recognized accrediting agencies that the Secretary of Education determines to be reliable authorities on the quality of the university or college. Some diploma mills have found a way around accreditation by claiming to be accredited by a false accreditation agency, one that sounds similar to a legitimate one. According to an article in *USA Today* (9-28-03), the number of fake accrediting organizations swelled from six in 1993 to 260 in 2003. Not all nonaccredited institutions of higher education, however, are diploma mills. Accreditation can be expensive and time-consuming to pursue, and so some legitimate colleges opt not to seek it. Accreditation or lack thereof further muddies the waters in the attempt to weed out diploma mills.

Under the bill, a qualified institution either would have to meet the criteria of 20 USC 1001, which requires accreditation (or pre-accreditation status), or it would have to be authorized to do business in the State.

Legislative Analyst: Claire Layman

FISCAL IMPACT

To the extent that the bill would allow additional civil actions, it would increase local court costs.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.