

PROPRIETARY SCHOOL: ALLOW TO CHARGE FOR GOODS/SERVICES PERFORMED BY STUDENTS

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Senate Bill 786 (Substitute H-2)

Sponsor: Sen. Alan Sanborn

House Committee: Regulatory Reform

Senate Committee: Economic Development and Regulatory Reform

Complete to 12-10-09

A SUMMARY OF SENATE BILL 786 AS REPORTED BY THE COMMITTEE 12-9-09

The bill would prohibit an unlicensed proprietary school from operating in Michigan, allow a proprietary school to charge a nominal fee for goods produced or services provided by students under certain conditions, and revise penalties for violations of the act or rules.

Currently, a proprietary school is defined as "a school that uses a certain plan or method to teach a trade, occupation, or vocation for a consideration, reward, or promise of whatever nature." The term includes a private business, trade, or home study school, but does not include a degree-granting institution.

House Bill 4536 would amend Public Act 148 of 1943 (MCL 395.101 et seq.), which regulates proprietary schools, to rename it the "Proprietary Schools Act." The bill would prohibit a person from operating a proprietary school within the state without a license or temporary permit from the Department of Energy, Labor, and Economic Growth. The department would have to prescribe the form of license and temporary permit. A license issued to a proprietary school accredited by a federally-recognized national or regional accrediting agency would be valid for three years; a license issued to any other proprietary school would be valid for one year. Whether operating under a three-year or a one-year license, a proprietary school would have to pay an annual license fee as set by the department under Section 2a(2) of the act.

A limited liability company (LLC) would be added to the current definition of "person" contained in the act; therefore, the act would apply also to a proprietary school owned by an LLC. In addition, a proprietary school licensed under the act would have to adopt and publish a written policy that allowed students to file a complaint with the department for any violation of the act or departmental rules.

Further, the bill would make numerous changes of a technical nature (e.g., replacing references to the Board of Education with references to the Department of Energy, Labor and Economic Growth, to reflect the shift of regulatory duties made several years ago by Executive Order).

Goods and services by students. Currently, the act prohibits the department from granting a temporary permit or a license to operate a proprietary school as part of, or in conjunction with, another business or commercial enterprise that utilizes or sells goods or services provided by students.

The bill would create an exception that would allow a proprietary school to sell goods produced or services provided by an enrolled student, and it would prohibit the department from refusing to grant a temporary permit or license, if all of the following criteria were met:

- The program included classroom study and practical training.
- Any practical training included faculty supervision.
- Engaging in producing the goods or providing the services as part of the student's training is an integral part of the program. However, the school would have to clearly disclose to the student in writing before enrollment that it intended to sell any goods or services produced by the student as part of practical training. The disclosure would have to be included in a signed enrollment agreement between the school and the student.
- Any customer who purchased goods produced or services provided by a student in the program is provided written notification that the individual producing the good or providing the services was a student of the school.
- Money from the sale of the goods or services is used solely to support the school.
- The school did not charge a student a monetary penalty or increase program hours beyond the number approved by the department for failing to attend any practical training, or require a student to recruit purchasers of the goods and services, unless that obligation is clearly disclosed to the student in writing before enrollment in the program.

Penalties. Currently, a person who violates the act is guilty of a misdemeanor punishable by a maximum fine of \$1,000 or imprisonment for not more than 90 days, or both.

Instead, the bill would specify that in lieu of license revocation for noncompliance with any laws or departmental rulings, the department could assess an administrative fine of up to \$1,000 against a school for a violation of the act or departmental rules; the department could not assess fines that in the aggregate were more than \$5,000 for multiple violations of the act or departmental rules arising from the same transaction.

A school that violated the act and had its license revoked, or that operated in the state without a license, would be guilty of a misdemeanor punishable by a maximum term of imprisonment of one year and/or a maximum fine of \$10,000.

BACKGROUND INFORMATION:

The bill is virtually identical to House Bill 4536 (Substitute H-1) which was reported from committee and passed by the House this past June. For a discussion on the background and the policy implications of allowing proprietary schools to charge for goods or services produced by their students, see the House Fiscal Agency analysis dated 6-10-09.

The issue was also addressed in House Bill 5995 of the 2007-2008 legislative session. That bill was passed by the House but died on the Senate floor.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

POSITIONS:

Irene's Myomassology Institute supports the bill. (12-9-09)

The Department of Energy, Labor, and Economic Growth indicated support for the bill. (12-9-09)

Ross Medical indicated support for the bill. (12-9-09)

Michigan Association of Career Schools indicated support for the bill. (12-9-09)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.