

SENATE BILL No. 786

September 9, 2009, Introduced by Senator SANBORN and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1943 PA 148, entitled

"An act to provide for the regulation and licensing of proprietary schools in the state; to require surety; to provide for collection and disposition of fees; and to prescribe penalties for the violation of this act,"

by amending sections 1, 1a, 2, 2a, and 2b (MCL 395.101, 395.101a, 395.102, 395.102a, and 395.102b), sections 1, 2, 2a, and 2b as amended and section 1a as added by 1983 PA 60.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~A proprietary school shall secure from the board a~~
2 ~~license issued in the form prescribed by the board and in~~
3 ~~accordance with this act. A PERSON SHALL NOT OPERATE A PROPRIETARY~~
4 SCHOOL IN THIS STATE WITHOUT A TEMPORARY PERMIT OR LICENSE FROM THE
5 DEPARTMENT UNDER THIS ACT. THE DEPARTMENT SHALL PRESCRIBE THE FORM
6 OF LICENSE AND TEMPORARY PERMIT.

7 (2) A license issued under this act ~~shall be~~ TO A PROPRIETARY

1 SCHOOL THAT IS ACCREDITED BY A NATIONAL OR REGIONAL ACCREDITING
2 AGENCY RECOGNIZED BY THE UNITED STATES SECRETARY OF EDUCATION IS
3 VALID FOR 3 YEARS. A LICENSE ISSUED UNDER THIS ACT TO ANY OTHER
4 PROPRIETARY SCHOOL IS NOT valid for ~~not~~ more than 1 year. ~~If the~~
5 ~~applicant~~ A PROPRIETARY SCHOOL THAT IS ISSUED EITHER A 1-YEAR
6 LICENSE OR A 3-YEAR LICENSE SHALL PAY AN ANNUAL LICENSE FEE SET BY
7 THE DEPARTMENT UNDER SECTION 2A(2). THE DEPARTMENT MAY RENEW THE
8 LICENSE OF A PERSON THAT continues to comply with this act and the
9 rules promulgated under this act. ~~, the license may be renewed.~~

10 (3) ~~The license may be revoked~~ DEPARTMENT MAY REVOKE A LICENSE
11 GRANTED UNDER THIS ACT at any time if, in the judgment of the ~~board~~
12 DEPARTMENT, the person to ~~whom~~ WHICH the license is issued is not
13 complying with ~~provisions of the~~ ANY APPLICABLE law or the rulings
14 of the ~~board~~ DEPARTMENT.

15 (4) ~~A person shall not be granted~~ EXCEPT AS PROVIDED IN
16 SUBSECTION (5), THE DEPARTMENT SHALL NOT GRANT a temporary permit
17 or a license to operate a proprietary school as part of, or in
18 conjunction with, another business or commercial enterprise ~~which~~
19 THAT utilizes or sells goods or services produced by students.

20 (5) A PROPRIETARY SCHOOL MAY SELL GOODS PRODUCED OR SERVICES
21 PROVIDED BY A STUDENT ENROLLED IN AN EDUCATIONAL PROGRAM OPERATED
22 BY A PROPRIETARY SCHOOL, AND THE DEPARTMENT MAY NOT REFUSE TO GRANT
23 A TEMPORARY PERMIT OR LICENSE TO A PROPRIETARY SCHOOL SOLELY
24 BECAUSE THE SCHOOL OPERATES THAT EDUCATIONAL PROGRAM, IF ALL OF THE
25 FOLLOWING ARE MET:

26 (A) THE PROGRAM INCLUDES CLASSROOM STUDY AND PRACTICAL
27 TRAINING.

1 (B) ANY PRACTICAL TRAINING INCLUDED IN THE PROGRAM IS
2 SUPERVISED BY A MEMBER OF THE FACULTY.

3 (C) IT IS AN INTEGRAL PART OF THE PROGRAM THAT THE STUDENT
4 ENGAGE IN PRODUCING THE GOODS OR PROVIDING THE SERVICES AS PART OF
5 HIS OR HER PRACTICAL TRAINING.

6 (D) ANY CUSTOMER PURCHASING GOODS PRODUCED OR SERVICES
7 PROVIDED BY A STUDENT IN THE PROGRAM IS NOTIFIED THAT THE
8 INDIVIDUAL PRODUCING THE GOODS OR PROVIDING THE SERVICES IS A
9 STUDENT OF THE SCHOOL.

10 (E) THE PRICE PAID BY THE CUSTOMER DOES NOT EXCEED THE
11 PROPRIETARY SCHOOL'S ACTUAL AND REASONABLE COSTS OF PRODUCING THE
12 GOODS OR PROVIDING THE SERVICES, PLUS AN ADDITIONAL NOMINAL AMOUNT.

13 Sec. 1a. (1) THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE
14 "PROPRIETARY SCHOOLS ACT".

15 (2) As used in this act:

16 (a) ~~"Board" means the state board of education.~~ "DEPARTMENT"
17 MEANS THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH.

18 (b) "Person" means an individual, partnership, corporation,
19 LIMITED LIABILITY COMPANY, association, organization, or other
20 legal entity.

21 (c) "Proprietary school" means a school that uses a certain
22 plan or method to teach a trade, occupation, or vocation for a
23 consideration, reward, or promise of ~~whatever nature~~ ANY KIND.
24 Proprietary school includes, but is not limited to, a private
25 business, trade, or home study school. Proprietary school does not
26 include ANY OF the following:

27 (i) A school or college possessing authority to grant degrees.

1 (ii) A school licensed by law through another ~~board~~**DEPARTMENT**
2 of this state.

3 (iii) A school maintained or a program conducted, without
4 profit, by a person for that person's employees.

5 Sec. 2. (1) ~~A license shall not be issued until the~~**THE**
6 **DEPARTMENT SHALL NOT ISSUE A LICENSE UNDER THIS ACT UNLESS THE**
7 **LICENSE** applicant has operated under a temporary permit **FROM THE**
8 **DEPARTMENT** in a manner satisfactory to the ~~board~~**DEPARTMENT** and
9 ~~until the board~~**DEPARTMENT** has approved the method and content of
10 the advertising, the standards and the methods of instruction, the
11 personnel, and the operating and instructional practices of the
12 school.

13 (2) ~~A~~**THE DEPARTMENT MAY GRANT A** temporary permit to operate a
14 proprietary school ~~may be granted on the basis of~~**BASED ON** a
15 written proposal submitted in the manner and form prescribed by the
16 ~~board~~**DEPARTMENT**. The proposal shall include plans for facilities,
17 instructional procedures, personnel, business standards, and
18 operating and instructional practices ~~which~~**THAT** comply with this
19 act and with rules promulgated under this act. A temporary permit
20 issued under this act ~~shall be~~**IS NOT** valid for ~~not~~ more than 1
21 year. ~~If the applicant~~**THE DEPARTMENT MAY RENEW THE TEMPORARY**
22 **PERMIT OF A PERSON THAT** continues to comply with this act and the
23 rules promulgated under this act. ~~, a temporary permit may be~~
24 ~~renewed.~~

25 Sec. 2a. (1) The ~~board~~**DEPARTMENT** shall provide for adequate
26 inspection of all proprietary schools. The ~~board~~**DEPARTMENT** shall
27 promulgate rules ~~pursuant to~~**UNDER** the administrative procedures

act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
~~24.201 to 24.315 of the Michigan Compiled Laws 1969 PA 306, MCL~~
~~24.201 TO 24.328~~, and employ the personnel necessary to ~~carry out~~
ADMINISTER this act. A proprietary school shall submit reports
 required by the ~~board-DEPARTMENT~~ and shall make available to
 authorized representatives of the ~~board-DEPARTMENT~~ all records
 pertaining to the instructional program of the school or to any
 individual student or enrollee.

(2) The ~~board-DEPARTMENT~~ shall set and collect fees for
 licenses, temporary permits, and renewals issued under this act.
 The fees shall be used solely for administrative expenses incurred
 under this act.

(3) The ~~board-DEPARTMENT~~ shall exercise jurisdiction and
 control over proprietary schools and solicitors for proprietary
 schools consistent with this act and ~~Act No. 40 of the Public Acts~~
~~of 1963, being sections 395.121 to 395.125 of the Michigan Compiled~~
~~Laws 1963 PA 40, MCL 395.121 TO 395.125.~~

Sec. 2b. A proprietary school shall provide the ~~board~~
DEPARTMENT with evidence of surety conditioned to provide
 indemnification to a student suffering loss because of inability to
 complete an approved course or program of study due to the closing
 of the proprietary school. ~~A-THE~~ surety may consist of a bond, the
 amount of which shall be determined according to rules promulgated
 by the ~~board-DEPARTMENT~~. Surety shall expire on June 30 following
 the date of issuance and **THE PROPRIETARY SCHOOL MUST SUBMIT** proof
 of renewal ~~shall be submitted to the board prior to-DEPARTMENT~~
BEFORE the date of expiration. ~~Failure-ANY FAILURE~~ to submit

1 evidence of surety ~~shall invalidate~~ **INVALIDATES** a license to
2 operate a proprietary school. This section does not apply to a
3 proprietary school with a license issued ~~by the board prior to~~
4 **UNDER THIS ACT BEFORE** November 2, 1967.