

Act No. 212
Public Acts of 2009
Approved by the Governor
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**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009**

Introduced by Senator Sanborn

ENROLLED SENATE BILL No. 786

AN ACT 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, 2b, and 3 (MCL 395.101, 395.101a, 395.102, 395.102a, 395.102b, and 395.103), sections 1, 2, 2a, 2b, and 3 as amended and section 1a as added by 1983 PA 60, and by adding section 2c.

The People of the State of Michigan enact:

Sec. 1. (1) A person shall not operate a proprietary school in this state without a temporary permit or license from the department under this act. The department shall prescribe the form of license and temporary permit.

(2) A license issued under this act to a proprietary school that is accredited by a national or regional accrediting agency recognized by the United States secretary of education is valid for 3 years. A license issued under this act to any other proprietary school is not valid for more than 1 year. A proprietary school that is issued either a 1-year license or a 3-year license shall pay an annual license fee set by the department under section 2a(2). The department may renew the license of a person that continues to comply with this act and the rules promulgated under this act.

(3) The department may revoke a license granted under this act at any time if, in the judgment of the department, the person to which the license is issued is not complying with any applicable law or the rulings of the department.

(4) Except as provided in subsection (5), the department shall not grant 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 produced by students.

(5) A proprietary school may sell goods produced or services provided by a student enrolled in an educational program operated by a proprietary school, and the department may not refuse to grant a temporary permit or license to a proprietary school if all of the following are met:

(a) The program includes classroom study and practical training.

(b) Any practical training included in the program is supervised by a member of the faculty.

(c) It is an integral part of the program that the student engage in producing the goods or providing the services as part of his or her practical training. The school shall clearly disclose to the student in writing before he or she enrolls in the program that the school intends to sell any goods or services produced by the student as part of his or her practical training. The school shall include this disclosure in a signed enrollment agreement between the school and the student.

(d) Any customer purchasing goods produced or services provided by a student in the program is provided written notification that the individual producing the goods or providing the services is a student of the school.

(e) Money from the sale of the goods or services is used solely to support the school.

(f) The school does not charge a student a monetary penalty or increase his or her program hours beyond the number approved by the department if he or she does not 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 he or she enrolls in the program.

Sec. 1a. (1) This act shall be known and may be cited as the “proprietary schools act”.

(2) As used in this act:

(a) “Department” means the department of energy, labor, and economic growth.

(b) “Person” means an individual, partnership, corporation, limited liability company, association, organization, or other legal entity.

(c) “Proprietary school” means a school that uses a certain plan or method to teach a trade, occupation, or vocation for a consideration, reward, or promise of any kind. Proprietary school includes, but is not limited to, a private business, trade, or home study school. Proprietary school does not include any of the following:

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

(ii) A school licensed by law through another board or department of this state.

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

Sec. 2. (1) The department shall not issue a license under this act unless the license applicant has operated under a temporary permit from the department in a manner satisfactory to the department and the department has approved the method and content of the advertising, the standards and the methods of instruction, the personnel, and the operating and instructional practices of the school.

(2) The department may grant a temporary permit to operate a proprietary school based on a written proposal submitted in the manner and form prescribed by the department. The proposal shall include plans for facilities, instructional procedures, personnel, business standards, and operating and instructional practices that comply with this act and with rules promulgated under this act. A temporary permit issued under this act is not valid for more than 1 year. The department may renew the temporary permit of a person that continues to comply with this act and the rules promulgated under this act.

Sec. 2a. (1) The department shall provide for adequate inspection of all proprietary schools. The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and employ the personnel necessary to administer this act. A proprietary school shall submit reports required by the department and shall make available to authorized representatives of the department all records pertaining to the instructional program of the school or to any individual student or enrollee.

(2) The 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 department shall exercise jurisdiction and control over proprietary schools and solicitors for proprietary schools consistent with this act and 1963 PA 40, MCL 395.121 to 395.125.

Sec. 2b. A proprietary school shall provide the 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. The surety may consist of a bond, the amount of which shall be determined according to rules promulgated by the department. Surety shall expire on June 30 following the date of issuance and the proprietary school must submit proof of renewal to the department before the date of expiration. Any failure to submit evidence of surety invalidates a license to operate a proprietary school. This section does not apply to a proprietary school with a license issued under this act before November 2, 1967.

Sec. 2c. A proprietary school licensed under this act shall adopt and publish a written policy that allows students to file a complaint with the department for any violation of this act or rules promulgated under this act.

Sec. 3. (1) In lieu of revocation under section 1(3), the department may assess an administrative fine against a proprietary school of not more than \$1,000.00 for a violation of this act or rules promulgated under this act. However, the department may not assess administrative fines under this subsection against a proprietary school that in the aggregate are more than \$5,000.00 for multiple violations of this act or rules promulgated under this act that arise from the same transaction.

(2) A proprietary school that violates this act and has its license revoked, or that operates in this state without a license, is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, or imprisonment for not more than 1 year, or both.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor