

HB 2597 - S COMM AMD

By Committee on Early Learning, K-12 & Higher Education

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 28C.10.020 and 1993 c 445 s 1 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Agency" means the work force training and education
8 coordinating board.

9 (2) "Agent" means a person owning an interest in, employed by, or
10 representing for remuneration a private vocational school within or
11 without this state, who enrolls or personally attempts to secure the
12 enrollment in a private vocational school of a resident of this state,
13 offers to award educational credentials for remuneration on behalf of
14 a private vocational school, or holds himself or herself out to
15 residents of this state as representing a private vocational school for
16 any of these purposes.

17 (3) "Current assets" includes cash or other assets or resources
18 commonly identified as those that are reasonably expected to be
19 realized in cash or sold or consumed within one year.

20 (4) "Current liabilities" includes obligations for which
21 liquidation is reasonably expected to require the use of existing
22 resources properly classifiable as current assets or the creation of
23 other current liabilities.

24 (5) "Degree" means any designation, appellation, letters, or words
25 including but not limited to "associate," "bachelor," "master,"
26 "doctor," or "fellow" which signify or purport to signify satisfactory
27 completion of an academic program of study beyond the secondary school
28 level.

29 (~~(4)~~) (6) "Education" includes but is not limited to, any class,
30 course, or program of training, instruction, or study.

1 ~~((+5))~~ (7) "Educational credentials" means degrees, diplomas,
2 certificates, transcripts, reports, or documents(~~(, or letters of~~
3 ~~designation, marks, appellations, series of letters, numbers, or words~~
4 ~~which)) that signify (~~or appear to signify enrollment, attendance,~~
5 ~~progress, or~~) satisfactory completion of the requirements or
6 prerequisites for any educational program.~~

7 ~~((+6))~~ (8) "Entity" includes, but is not limited to, a person,
8 company, firm, society, association, partnership, corporation, or
9 trust.

10 ~~((+7))~~ (9) "Private vocational school" means any location where an
11 entity is offering postsecondary education in any form or manner for
12 the purpose of instructing, training, or preparing persons for any
13 vocation or profession.

14 ~~((+8))~~ (10) "Probation" means the agency has officially notified
15 a private vocational school in writing that the school or a program
16 offered by the school has been identified by the agency as at risk and
17 has deficiencies that must be corrected within a specified time period.

18 (11) "Program" means a sequence of approved subjects offered by a
19 school that teaches skills and fundamental knowledge required for
20 employment in a particular occupation.

21 (12) "To grant" includes to award, issue, sell, confer, bestow, or
22 give.

23 ~~((+9))~~ (13) "To offer" includes, in addition to its usual
24 meanings, to advertise or publicize. "To offer" also means to solicit
25 or encourage any person, directly or indirectly, to perform the act
26 described.

27 ~~((+10))~~ (14) "To operate" means to establish, keep, or maintain
28 any facility or location where, from, or through which education is
29 offered or educational credentials are offered or granted to residents
30 of this state, and includes contracting for the performance of any such
31 act.

32 **Sec. 2.** RCW 28C.10.050 and 2005 c 274 s 247 are each amended to
33 read as follows:

34 (1) The agency shall adopt (~~by rule minimum standards for entities~~
35 ~~operating private vocational schools. The minimum standards shall~~
36 ~~include, but not be limited to, requirements for each~~) minimum

1 requirements to assess whether a private vocational school is eligible
2 to obtain and maintain a license in this state.

3 (2) The requirements adopted by the agency shall, at a minimum,
4 require a private vocational school to:

5 (a) Disclose to the agency information about its ownership and
6 financial position and to demonstrate that it has sufficient financial
7 resources to fulfill its commitments to students. Financial
8 disclosures provided to the agency shall not be subject to public
9 disclosure under chapter 42.56 RCW;

10 (b) Demonstrate to the agency that the school is financially viable
11 and responsible, and has sufficient financial resources to fulfill the
12 school's commitments to its students. A private vocational school
13 shall be considered financially viable and responsible only if it:

14 (i) Is able to provide the services described in its official
15 publications and statements;

16 (ii) Is able to provide the administrative resources necessary to
17 comply with the requirements of this subsection;

18 (iii) Is able to meet all of its financial obligations, including,
19 but not limited to, refunds that it is required by agency rule to
20 provide to students;

21 (iv) Demonstrates that at the close of its most recent fiscal year
22 it had a ratio of current assets to current liabilities of at least
23 1:1; and

24 (v) Had at the close of its most recent fiscal year a positive net
25 worth, unless the school can demonstrate additional financial resources
26 to be considered. For the purposes of this section, "positive net
27 worth" means the school's assets exceed its liabilities;

28 (c) Follow a uniform statewide cancellation and refund policy as
29 specified by the agency;

30 ~~((+e))~~ (d) Disclose through use of a school catalog, brochure, or
31 other written material, necessary information to students so that
32 students may make informed enrollment decisions. The agency shall
33 specify what information is required;

34 ~~((+d))~~ (e) Use an enrollment contract or agreement that includes:
35 (i) The school's cancellation and refund policy, (ii) a brief statement
36 that the school is licensed under this chapter and that inquiries may
37 be made to the agency, and (iii) other necessary information as
38 determined by the agency;

1 ~~((e))~~ (f) Describe accurately and completely in writing to
2 students before their enrollment prerequisites and requirements for (i)
3 completing successfully the programs of study in which they are
4 interested and (ii) qualifying for the fields of employment for which
5 their education is designed;

6 ~~((f))~~ (g) Comply with the requirements of RCW 28C.10.084;

7 ~~((g))~~ (h) Assess the basic skills and relevant aptitudes of each
8 potential student to determine that a potential student has the basic
9 skills and relevant aptitudes necessary to complete and benefit from
10 the program in which the student plans to enroll, including but not
11 limited to administering a United States department of education-
12 approved English as a second language exam before enrolling students
13 for whom English is a second language unless the students provide proof
14 of graduation from a United States high school or proof of completion
15 of a GED in English. (~~Guidelines for such assessments shall be~~
16 developed by the agency, in consultation with the schools. The method
17 of assessment shall be reported to the agency. Assessment records
18 shall be maintained in the student's file)) Each private vocational
19 school shall report its methods of assessment to the agency and shall
20 maintain assessment records in each student's file. If a potential
21 student's basic skills or English language proficiency is not adequate
22 for the student's likely success in the program in which the student
23 plans to enroll, the private vocational school shall so inform the
24 student and shall either provide basic skills training or English as a
25 second language supplemental instruction to the student, or assist such
26 a student by providing information about where to obtain basic skills
27 training or English as a second language instruction;

28 ~~((h))~~ (i) Discuss with each potential student the potential
29 student's obligations in signing any enrollment contract and/or
30 incurring any debt for educational purposes. The discussion shall
31 include the inadvisability of acquiring an excessive educational debt
32 burden that will be difficult to repay given employment opportunities
33 and average starting salaries in the potential student's chosen
34 occupation(~~(-))~~);

35 ~~((2) Any enrollment contract shall have))~~ (j) Ensure that any
36 enrollment contract between the private vocational school and its
37 students has an attachment in a format provided by the agency. The
38 attachment shall be signed by both the school and the student. The

1 attachment shall stipulate that the school has complied with subsection
2 (~~((1)(h))~~) (2)(i) of this section and that the student understands and
3 accepts his or her responsibilities in signing any enrollment contract
4 or debt application. The attachment shall also stipulate that the
5 enrollment contract shall not be binding for at least five days,
6 excluding Sundays and holidays, following signature of the enrollment
7 contract by both parties(~~(-~~

8 ~~(3) The agency shall deny, revoke, or suspend the license of any~~
9 ~~school that does not meet or maintain the minimum standards))~~;

10 (k) Comply with the requirements related to qualifications of
11 administrators and instructors under section 3 of this act; and

12 (l) Upon request, provide to the agency a statement from an
13 independent accountant regarding the school's financial viability. The
14 agency may determine that a school is not financially viable,
15 responsible, or able to fulfill its commitments to students if the
16 statement from an independent accountant expresses substantial doubt
17 about the school's financial ability to continue operating.

18 (3) The agency may deny a private vocational school's application
19 for licensure if the school fails to meet the requirements in this
20 section.

21 (4) The agency may determine that a licensed private vocational
22 school or a particular program of a private vocational school is at
23 risk if:

24 (a) There is a pattern or history of substantiated student
25 complaints filed with the agency pursuant to RCW 28C.10.120; or

26 (b) The private vocational school has a pattern or history of
27 failing to meet the minimum requirements for licensure established by
28 the agency or substantially fails to meet the minimum requirements for
29 licensure established by the agency.

30 (5) If the agency determines that a private vocational school is at
31 risk, the agency:

32 (a) Shall notify the school in writing of the deficiencies
33 determined by the agency;

34 (b) Shall require the owner of the school, the director of the
35 school, or both of them, to meet with agency staff to discuss the
36 school's deficiencies;

37 (c) May require the school to have an outside audit conducted; and

38 (d) May place the school on probation.

1 (6) A school that is placed on probation by the agency shall
2 provide to the agency:

3 (a) A written school improvement plan that addresses the
4 deficiencies identified by the agency and the school's plan to remedy
5 the deficiencies. The school shall provide its school improvement plan
6 to the agency no later than thirty days after the meeting required by
7 subsection (5)(b) of this section;

8 (b) Evidence, if requested by the agency, that the school has
9 secured a line of credit from a lender approved by and in an amount
10 determined by the agency. The school shall provide evidence of the
11 line of credit to the agency no later than sixty days after the meeting
12 required by subsection (5)(b) of this section; and

13 (c) A monthly status report of the school's progress on
14 implementing its improvement plan for a period of up to twelve months.
15 The monthly status report shall include all students' names and current
16 contact information.

17 (7) If a private vocational school that is placed on probation by
18 the agency fails to correct the deficiencies identified by the agency
19 within twelve months the agency may revoke the school's license.

20 NEW SECTION. Sec. 3. A new section is added to chapter 28C.10 RCW
21 to read as follows:

22 (1) The education and experience of administrators, instructors,
23 and counselors employed by a private vocational school shall be
24 adequate to ensure that students receive educational services
25 consistent with the school's stated program objectives.

26 (2) A private vocational school must file the qualifications of
27 each of its administrators, instructors, and counselors with the agency
28 within thirty calendar days of the day the school hires the
29 administrator, instructor, or counselor. This information shall be
30 provided by the school to the agency in the form required by the
31 agency.

32 (3) A private vocational school shall establish and enforce written
33 policies for the qualification, supervision, and periodic evaluation of
34 administrators, instructors, and counselors.

35 (4) The highest ranking administrator at a private vocational
36 school shall have at least two years of experience in school or

1 business administration, teaching, or professional employment related
2 to his or her duties within the school.

3 (5) Private vocational school instructors shall:

4 (a) Have at least two years of full-time work experience,
5 postsecondary training, or a combination of both, in the subjects they
6 instruct; or

7 (b) Possess current evidence issued by a regulatory agency of this
8 or another state that they are qualified to teach in their particular
9 subjects of instruction.

10 (6) If a private vocational school uses teacher assistants, aides,
11 or trainees, it must maintain policies governing their duties and
12 functions. Such personnel may provide services to students only under
13 the direct supervision of a qualified instructor and may not act as
14 substitutes for instructors.

15 (7) A private vocational school's owners, administrators,
16 instructors, agents, and other staff must be of good moral character
17 and reputation. The agency may find that a person is not of good moral
18 character and reputation if the person: (a) Has been convicted of a
19 felony within the last seven years or a misdemeanor that involved any
20 sexual offense, or (b) is found to have made any false and material
21 statements to the agency.

22 (8) Every private vocational school shall register its sales agents
23 with the agency within thirty days of the school's hiring or
24 contracting with the sales agent.

25 **Sec. 4.** RCW 28C.10.120 and 1993 c 445 s 3 are each amended to read
26 as follows:

27 (1) Complaints may be filed under this chapter only by a person
28 claiming loss of tuition or fees as a result of an unfair business
29 practice. The complaint shall set forth the alleged violation and
30 shall contain information required by the agency on forms provided for
31 that purpose. A complaint may also be filed with the agency by an
32 authorized staff member of the agency or by the attorney general.

33 (2) The agency shall investigate any complaint under this section
34 and shall first attempt to bring about a negotiated settlement. The
35 agency director or the director's designee may conduct an informal
36 hearing with the affected parties in order to determine whether a
37 violation has occurred.

1 (3) If the agency finds that the private vocational school or its
2 agent engaged in or is engaging in any unfair business practice, the
3 agency shall issue and cause to be served upon the violator an order
4 requiring the violator to cease and desist from the act or practice and
5 may impose the penalties provided under RCW 28C.10.130. If the agency
6 finds that the complainant has suffered loss as a result of the act or
7 practice, the agency may order the violator to pay full or partial
8 restitution of any amounts lost. The loss may include any money paid
9 for tuition, required or recommended course materials, and any
10 reasonable living expenses incurred by the complainant during the time
11 the complainant was enrolled at the school.

12 (4) The complainant is not bound by the agency's determination of
13 restitution. The complainant may reject that determination and may
14 pursue any other legal remedy.

15 (5) The violator may, within twenty days of being served any order
16 described under subsection (3) of this section, file an appeal under
17 the administrative procedure act, chapter 34.05 RCW. Timely filing
18 stays the agency's order during the pendency of the appeal. If the
19 agency prevails, the appellant shall pay the costs of the
20 administrative hearing.

21 (6) If a private vocational school closes without providing
22 adequate notice to its enrolled students, the agency shall provide
23 transition assistance to the school's students including, but not
24 limited to, information regarding: (a) Transfer options available to
25 students; (b) financial aid discharge eligibility and procedures; (c)
26 the labor market, job search strategies, and placement assistance
27 services; and (d) other support services available to students.

28 NEW SECTION. Sec. 5. This act takes effect July 1, 2006.

29 NEW SECTION. Sec. 6. If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected."

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1 On page 1, line 1 of the title, after "programs;" strike the
2 remainder of the title and insert "amending RCW 28C.10.020, 28C.10.050,
3 and 28C.10.120; adding a new section to chapter 28C.10 RCW; and
4 providing an effective date."

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