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HOUSE BILL 2597

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By Representatives Kenney, Cox, Sells, Hasegawa, Fromhold, Rodne, McCoy, Jarrett, Morrell, Conway, Ormsby and Clibborn

Read first time 01/11/2006. Referred to Committee on Higher Education & Workforce Education.

1 AN ACT Relating to private vocational school programs; amending RCW  
2 28C.10.020, 28C.10.050, and 28C.10.120; adding a new section to chapter  
3 28C.10 RCW; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Agency" means the work force training and education  
10 coordinating board.

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

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

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

8           (5) "Degree" means any designation, appellation, letters, or words  
9 including but not limited to "associate," "bachelor," "master,"  
10 "doctor," or "fellow" which signify or purport to signify satisfactory  
11 completion of an academic program of study beyond the secondary school  
12 level.

13           (~~(4)~~) (6) "Education" includes but is not limited to, any class,  
14 course, or program of training, instruction, or study.

15           (~~(5)~~) (7) "Educational credentials" means degrees, diplomas,  
16 certificates, transcripts, reports, or documents(~~(, or letters of~~  
17 ~~designation, marks, appellations, series of letters, numbers, or words~~  
18 ~~which)) that signify (~~or appear to signify enrollment, attendance,~~  
19 ~~progress, or~~) satisfactory completion of the requirements or  
20 prerequisites for any educational program.~~

21           (~~(6)~~) (8) "Entity" includes, but is not limited to, a person,  
22 company, firm, society, association, partnership, corporation, or  
23 trust.

24           (~~(7)~~) (9) "Private vocational school" means any location where an  
25 entity is offering postsecondary education in any form or manner for  
26 the purpose of instructing, training, or preparing persons for any  
27 vocation or profession.

28           (~~(8)~~) (10) "Probation" means the agency has officially notified  
29 a private vocational school in writing that the school or a program  
30 offered by the school has been identified by the agency as at risk and  
31 has deficiencies that must be corrected within a specified time period.

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

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

37           (~~(9)~~) (13) "To offer" includes, in addition to its usual

1 meanings, to advertise or publicize. "To offer" also means to solicit  
2 or encourage any person, directly or indirectly, to perform the act  
3 described.

4 ~~((+10+))~~ (14) "To operate" means to establish, keep, or maintain  
5 any facility or location where, from, or through which education is  
6 offered or educational credentials are offered or granted to residents  
7 of this state, and includes contracting for the performance of any such  
8 act.

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

11 (1) The agency shall adopt ~~((by rule minimum standards for entities  
12 operating private vocational schools. The minimum standards shall  
13 include, but not be limited to, requirements for each))~~ minimum  
14 requirements to assess whether a private vocational school is eligible  
15 to obtain and maintain a license in this state.

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

18 (a) Disclose to the agency information about its ownership and  
19 financial position and to demonstrate that it has sufficient financial  
20 resources to fulfill its commitments to students. Financial  
21 disclosures provided to the agency shall not be subject to public  
22 disclosure under chapter 42.56 RCW;

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

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

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

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

34 (iv) Demonstrates that at the close of its most recent fiscal year  
35 it had a ratio of current assets to current liabilities of at least  
36 1:1; and

1 (v) Had at the close of its most recent fiscal year a positive net  
2 worth. For the purposes of this section, "positive net worth" means  
3 the school's assets exceed its liabilities;

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

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

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

15 ~~((+e))~~ (f) Describe accurately and completely in writing to  
16 students before their enrollment prerequisites and requirements for (i)  
17 completing successfully the programs of study in which they are  
18 interested and (ii) qualifying for the fields of employment for which  
19 their education is designed;

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

21 ~~((+g))~~ (h) Assess the basic skills and relevant aptitudes of each  
22 potential student to determine that a potential student has the basic  
23 skills and relevant aptitudes necessary to complete and benefit from  
24 the program in which the student plans to enroll, including but not  
25 limited to administering a United States department of education-  
26 approved English as a second language exam before enrolling students  
27 for whom English is a second language. Guidelines for such assessments  
28 shall be developed by the agency, in consultation with the schools.  
29 ~~((The method of assessment shall be reported to the agency. Assessment~~  
30 ~~records shall be maintained in the student's file)) Each private  
31 vocational school shall report its methods of assessment to the agency  
32 and shall maintain assessment records in each student's file. If a  
33 student's basic skills or English language proficiency is not adequate  
34 for the student's likely success in the program in which the student is  
35 enrolled, the private vocational school shall so inform the student and  
36 shall either provide basic skills training or English as a second  
37 language supplemental instruction to the student, or assist such~~

1 student with obtaining basic skills training or English as a second  
2 language instruction;

3 ~~((h))~~ (i) Discuss with each potential student the potential  
4 student's obligations in signing any enrollment contract and/or  
5 incurring any debt for educational purposes. The discussion shall  
6 include the inadvisability of acquiring an excessive educational debt  
7 burden that will be difficult to repay given employment opportunities  
8 and average starting salaries in the potential student's chosen  
9 occupation(~~(-)~~);

10 ~~((2) Any enrollment contract shall have)~~ (j) Ensure that any  
11 enrollment contract between the private vocational school and its  
12 students has an attachment in a format provided by the agency. The  
13 attachment shall be signed by both the school and the student. The  
14 attachment shall stipulate that the school has complied with subsection  
15 (1)~~((h))~~ (i) of this section and that the student understands and  
16 accepts his or her responsibilities in signing any enrollment contract  
17 or debt application. The attachment shall also stipulate that the  
18 enrollment contract shall not be binding for at least five days,  
19 excluding Sundays and holidays, following signature of the enrollment  
20 contract by both parties(~~(-~~

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

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

25 (1) Upon request, provide to the agency a statement from an  
26 independent accountant regarding the school's financial viability. The  
27 agency may determine that a school is not financially viable,  
28 responsible, or able to fulfill its commitments to students if the  
29 statement from an independent accountant expresses substantial doubt  
30 about the school's financial ability to continue operating.

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

34 (4) The agency may determine that a licensed private vocational  
35 school or a particular program of a private vocational school is at  
36 risk if:

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

1       (b) The private vocational school has a pattern or history of  
2 failing to meet the minimum requirements for licensure established by  
3 the agency or substantially fails to meet the minimum requirements for  
4 licensure established by the agency.

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

7       (a) Shall notify the school in writing of the deficiencies  
8 determined by the agency;

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

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

13       (d) May place the school on probation and include the school in any  
14 list published by the agency of schools that are on probation.

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

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

22       (b) Evidence, if requested by the agency, that the school has  
23 secured a line of credit from a lender approved by and in an amount  
24 determined by the agency. The school shall provide evidence of the  
25 line of credit to the agency no later than thirty days after the  
26 meeting required by subsection (5)(b) of this section; and

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

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

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

36       (1) The education and experience of administrators, instructors,

1 and counselors employed by a private vocational school shall be  
2 adequate to ensure that students receive educational services  
3 consistent with the school's stated program objectives.

4 (2) A private vocational school must file the qualifications of  
5 each of its administrators, instructors, and counselors with the agency  
6 within thirty calendar days of the day the school hires the  
7 administrator, instructor, or counselor. This information shall be  
8 provided by the school to the agency in the form required by the  
9 agency.

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

13 (4) The highest ranking administrator at a private vocational  
14 school shall have at least two years of experience in school or  
15 business administration, teaching, or professional employment related  
16 to his or her duties within the school.

17 (5) Private vocational school instructors shall:

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

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

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

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

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

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

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

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

14       (3) If the agency finds that the private vocational school or its  
15 agent engaged in or is engaging in any unfair business practice, the  
16 agency shall issue and cause to be served upon the violator an order  
17 requiring the violator to cease and desist from the act or practice and  
18 may impose the penalties provided under RCW 28C.10.130. If the agency  
19 finds that the complainant has suffered loss as a result of the act or  
20 practice, the agency may order the violator to pay full or partial  
21 restitution of any amounts lost. The loss may include any money paid  
22 for tuition, required or recommended course materials, and any  
23 reasonable living expenses incurred by the complainant during the time  
24 the complainant was enrolled at the school.

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

28       (5) The violator may, within twenty days of being served any order  
29 described under subsection (3) of this section, file an appeal under  
30 the administrative procedure act, chapter 34.05 RCW. Timely filing  
31 stays the agency's order during the pendency of the appeal. If the  
32 agency prevails, the appellant shall pay the costs of the  
33 administrative hearing.

34       (6) If a private vocational school closes without providing  
35 adequate notice to its enrolled students, the agency shall provide  
36 transition assistance to the school's students including, but not  
37 limited to, information regarding: (a) Transfer options available to

1 students; (b) financial aid discharge eligibility and procedures; (c)  
2 the labor market, job search strategies, and placement assistance  
3 services; and (d) other support services available to students.

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

5 NEW SECTION. **Sec. 6.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

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