

2SHB 1439 - H AMD 237

By Representative Pollet

ADOPTED 03/06/2017

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

3 "NEW SECTION. **Sec. 1.** (1) In 2016, the student achievement
4 council contracted with the William D. Ruckelshaus center to conduct
5 a two-part study analyzing the system of for-profit degree-granting
6 institutions and private vocational schools in Washington. The
7 Ruckelshaus center issued its first report in December 2016, and
8 this act incorporates some of the findings and recommendations from
9 the first phase of the report, including the benefits of ensuring
10 that recruitment advertising and materials are consistent with state
11 and federal verified data. This act also authorizes the second part
12 of the study, as recommended by the center, including discussions of
13 agency jurisdiction and consistency.

14 (2) The legislature finds that there are many private for-profit
15 and nonprofit career colleges and degree-granting institutions
16 providing Washington state residents with important postsecondary
17 and career opportunities that contribute to the economic security of
18 Washington residents and aid in meeting the needs of our state's
19 growing economy. The legislature also recognizes that there have
20 been high profile closures of, or federal and other state
21 determinations regarding, some for-profit or formerly for-profit
22 institutions that have damaged the reputation of the sector and
23 impacted the expectations and financial stability of some students.
24 It is the legislature's intent to provide a framework to ensure a
25 level playing field exists for the many institutions that provide
26 disclosures to prospective students based on verifiable metrics,
27 which allow prospective students to be able to make the best

1 decisions on school and career choices and on financial aid and
2 loans to finance their educational goals. The legislature also
3 intends to ensure that students are provided the information they
4 need to make the best decisions for their educational future and
5 careers in event of closure or potential closure of an institution.
6 In addition, the legislature intends to protect the state's interest
7 in the integrity of its grant and aid programs, from private
8 decisions to close schools or programs under circumstances that may
9 prevent students from obtaining the degree or certificate and career
10 services that the students expected upon enrollment.

11
12 NEW SECTION. **Sec. 2.** (1) Subject to the availability of
13 amounts appropriated for this specific purpose, the student
14 achievement council must continue administering the two-part study
15 of for-profit degree-granting institutions and private vocational
16 schools that was authorized under section 609, chapter 36, Laws of
17 2016 sp. sess..

18 (2) As part of the second part of the process, the study must
19 contain findings and recommendations regarding the creation of an
20 ombuds to serve students of degree-granting institutions and private
21 vocational schools, including a recommendation on which state agency
22 should house the position, and if there are other ombuds positions
23 created by the legislature that can serve these students.

24 (3) The student achievement council and the workforce training
25 and education coordinating board must provide a report on the study
26 to the legislature by December 31, 2017.

27
28 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.85
29 RCW to read as follows:

30 (1) The council may deny, revoke, or suspend the authorization
31 of any degree-granting institution authorized to operate under this
32 chapter that is found to be in violation of this chapter.

33 (2) It is a violation of this chapter for a degree-granting
34 institution authorized to operate under this chapter or an agent

1 employed by such a degree-granting institution to provide
2 prospective students with any testimonial, endorsement, or other
3 information that a reasonable person would find was likely to
4 mislead or deceive prospective students or the public regarding
5 current practices of the school, current conditions for employment
6 opportunities, postgraduation employment by industry, or probable
7 earnings in the occupation for which the education was designed, the
8 likelihood of obtaining financial aid or low-interest loans for
9 tuition, or the ability of graduates to repay loans.

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11 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.85
12 RCW to read as follows:

13 If a degree-granting institution authorized to operate under
14 this chapter presents data about its completion rates, employment
15 rates, loan or indebtedness metrics, or its graduates' median hourly
16 and annual earnings, the posted data must be consistent with the
17 data posted on the workforce training and education coordinating
18 board's career bridge web site or the data posted by the United
19 States department of education, if the board or the department of
20 education has posted such data.

21

22 **Sec. 5.** RCW 28C.10.050 and 2014 c 11 s 2 are each amended to
23 read as follows:

24 (1) The agency shall adopt by rule minimum standards for
25 entities operating private vocational schools. The minimum standards
26 shall include, but not be limited to, requirements to assess whether
27 a private vocational school is eligible to obtain and maintain a
28 license in this state.

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

31 (a) Disclose to the agency information about its ownership and
32 financial position and ((to)) demonstrate to the agency that the
33 school is financially viable and responsible and that it has
34 sufficient financial resources to fulfill its commitments to

1 students. Financial disclosures provided to the agency shall not be
2 subject to public disclosure under chapter 42.56 RCW;

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

5 (c) Disclose through use of a school catalog, web site,
6 brochure, or other written material, necessary information to
7 students so that students may make informed enrollment decisions.
8 The agency shall specify what data and information ((is)) are
9 required. To the extent that these web sites or materials present
10 any data on the completion rates, employment rates, loan or
11 indebtedness metrics, and its graduates' median hourly and annual
12 earnings for any of the private vocational schools or its programs,
13 the posted data must be consistent with the data posted on the
14 agency's career bridge web site or the data posted by the United
15 States department of education, if the agency or the department of
16 education has posted such data. Nothing in this subsection requires
17 the agency to make changes to the career bridge web site or add new
18 elements or features to the career bridge web site;

19 (d) Use an enrollment contract or agreement that includes: (i)
20 The school's cancellation and refund policy, (ii) a brief statement
21 that the school is licensed under this chapter and that inquiries,
22 concerns, or complaints may be made to the agency, and (iii) other
23 necessary information as determined by the agency;

24 (e) Describe accurately and completely in writing to students
25 before their enrollment prerequisites and requirements for (i)
26 completing successfully the programs of study in which they are
27 interested and (ii) qualifying for the fields of employment for
28 which their education is designed;

29 (f) Comply with the requirements of RCW 28C.10.084;

30 (g) Assess the basic skills and relevant aptitudes of each
31 potential student to determine that a potential student has the
32 basic skills and relevant aptitudes necessary to complete and
33 benefit from the program in which the student plans to enroll,
34 including but not limited to administering a United States

1 department of education-approved English as a second language exam
2 before enrolling students for whom English is a second language
3 unless the students provide proof of graduation from a United States
4 high school or proof of completion of a high school equivalency
5 certificate as provided in RCW 28B.50.536 in English or results of
6 another academic assessment determined appropriate by the agency.
7 Guidelines for such assessments shall be developed by the agency, in
8 consultation with the schools;

9 (h) Discuss with each potential student the potential student's
10 obligations in signing any enrollment contract and/or incurring any
11 debt for educational purposes. The discussion shall include the
12 inadvisability of acquiring an excessive educational debt burden
13 that will be difficult to repay given employment opportunities and
14 average starting salaries in the potential student's chosen
15 occupation;

16 (i) Ensure that any enrollment contract between the private
17 vocational school and its students has an attachment in a format
18 provided by the agency. The attachment shall be signed by both the
19 school and the student. The attachment shall stipulate that the
20 school has complied with (h) of this subsection and that the student
21 understands and accepts his or her responsibilities in signing any
22 enrollment contract or debt application. The attachment shall also
23 stipulate that the enrollment contract shall not be binding for at
24 least five days, excluding Sundays and holidays, following signature
25 of the enrollment contract by both parties; and

26 (j) Comply with the requirements related to qualifications of
27 administrators and instructors.

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

31 (4) The agency may determine that a licensed private vocational
32 school or a particular program of a private vocational school is at
33 risk of closure or termination if:

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

3 (b) The private vocational school fails to meet minimum
4 licensing requirements and has a pattern or history of failing to
5 meet the minimum requirements.

6 (5) If the agency determines that a private vocational school or
7 a particular program is at risk of closure or termination, the
8 agency shall require the school to take corrective action.

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10 **Sec. 6.** RCW 28C.10.110 and 2014 c 11 s 6 are each amended to
11 read as follows:

12 (1) It is a violation of this chapter for an entity operating a
13 private vocational school to engage in an unfair business practice.
14 The agency may deny, revoke, or suspend the license of any entity
15 that is found to have engaged in a substantial number of unfair
16 business practices or that has engaged in significant unfair
17 business practices.

18 (2) It is an unfair business practice for an entity operating a
19 private vocational school or an agent employed by a private
20 vocational school to:

21 (a) Fail to comply with the terms of a student enrollment
22 contract or agreement;

23 (b) Use an enrollment contract form, catalog, brochure, or
24 similar written material affecting the terms and conditions of
25 student enrollment other than that previously submitted to the
26 agency and authorized for use;

27 (c) Advertise in the help wanted section of a newspaper or
28 otherwise represent falsely, directly or by implication, that the
29 school is an employment agency, is making an offer of employment or
30 otherwise is attempting to conceal the fact that what is being
31 represented are course offerings of a school;

32 (d) Represent falsely, directly or by implication, that an
33 educational program is approved by a particular industry or that
34 successful completion of the program qualifies a student for

1 admission to a labor union or similar organization or for the
2 receipt of a state license in any business, occupation, or
3 profession;

4 (e) Represent falsely, directly or by implication, that a
5 student who successfully completes a course or program of
6 instruction may transfer credit for the course or program to any
7 institution of higher education;

8 (f) Represent falsely, directly or by implication, in
9 advertising or in any other manner, the school's size, location,
10 facilities, equipment, faculty qualifications, number of faculty, or
11 the extent or nature of any approval received from an accrediting
12 association;

13 (g) Represent that the school is approved, recommended, or
14 endorsed by the state of Washington or by the agency, except the
15 fact that the school is authorized to operate under this chapter may
16 be stated;

17 (h) Provide prospective students with: Any testimonial,
18 endorsement, or other information ((which has the tendency)) that a
19 reasonable person would find likely to mislead or deceive
20 prospective students or the public, including those regarding
21 current practices of the school((τ)); information regarding rates of
22 completion or postgraduation employment by industry, or its
23 graduates' median hourly or annual earnings, that is not consistent
24 with the presentation of data as established under RCW
25 28C.10.050(2)(c); current conditions for employment
26 opportunities((τ)); postgraduation employment by industry or
27 probable earnings in the occupation for which the education was
28 designed; total cost to obtain a degree or certificate; the
29 acceptance of a degree or certificate by employers as a
30 qualification for employment; the acceptance of courses, a degree,
31 or certificate by higher education institutions; the likelihood of
32 obtaining financial aid or low-interest loans for tuition; and the
33 ability of graduates to repay loans;

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1 (i) Designate or refer to sales representatives as "counselors,"
2 "advisors," or similar terms which have the tendency to mislead or
3 deceive prospective students or the public regarding the authority
4 or qualifications of the sales representatives;

5 (j) Make or cause to be made any statement or representation in
6 connection with the offering of education if the school or agent
7 knows or reasonably should have known the statement or
8 representation to be false, substantially inaccurate, or misleading;

9 (k) Engage in methods of advertising, sales, collection, credit,
10 or other business practices which are false, deceptive, misleading,
11 or unfair, as determined by the agency by rule; or

12 (l) Attempt to recruit students in or within forty feet of a
13 building that contains a welfare or unemployment office. Recruiting
14 includes, but is not limited to canvassing and surveying. Recruiting
15 does not include leaving materials at or near an office for a person
16 to pick up of his or her own accord, or handing a brochure or
17 leaflet to a person provided that no attempt is made to obtain a
18 name, address, telephone number, or other data, or to otherwise
19 actively pursue the enrollment of the individual."

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21 Correct the title.

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EFFECT:

- Adds language to the intent section stating that the Ruckelshaus Center issued its first report and that the bill incorporates some of the findings and recommendations from that report.
- Removes the provisions: (1) explicitly stating that a student may bring an action under the consumer protection act for a degree-granting institution's or private vocational school's unfair business practice; (2) making it separate violations for each student injured by an unfair business practice; (3) requiring the institutions and schools to provide notices to students regarding consumer rights; (4) requiring the institutions and schools to provide periodic notices to students regarding their accrual of student financial aid; (5) prohibiting the institutions and schools from engaging in selling student loan products that financially benefit a person with an ownership interest in the institution or school; (6) making it a violation for an institution or school to fail to

continue job placement services promised to students if the institution or school closes; (7) making it a violation for an institution or school to place a student in a short-term job unrelated to the student's program for the purposes of meeting reporting requirements; (8) requiring the Student Achievement Council and the Workforce Training Board to establish consistent definitions for terms, such as "part-time employment" and other terms; (9) making it explicit that the Student Achievement Council may deny, revoke, or suspend authorization of a degree-granting institution for engaging in a significant number of unfair business practices; and (10) making it a violation to use an official United States military logo in advertising or promotional materials.

- Removes the null and void clause.

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