

1 SB397
2 116555-2
3 By Senators Figures, Dixon, Pittman, Mitchell, Glover, and
4 Sanders
5 RFD: Education
6 First Read: 09-FEB-10

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 16-46-1 and 16-46-3, Code of
12 Alabama 1975, relating to the regulation of private schools
13 and courses of instruction; to clarify the terms profit and
14 nonprofit as used in the definition of a private school; and
15 to change the baseline exemption date from April 29, 1980, to
16 January 1, 2004.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 16-46-1 and 16-46-3 of the Code
19 of Alabama 1975, are amended to read as follows:

20 "§16-46-1.

21 "For the purposes of this chapter, the following
22 words shall have the meanings respectively ascribed to them by
23 this section:

24 "(1) COURSE. Any course, or portion of a plan or
25 program of instruction, whether conducted in person, by mail,
26 or by any other method.

1 "(2) SCHOOL. Any person, group of people,
2 institution, establishment, agency, or organization offering
3 or administering a plan, course, or program of instruction
4 whether conducted in person, by mail, or by any other method.

5 "(3) PRIVATE SCHOOL. Operation of either profit or
6 nonprofit entity as opposed to publicly owned or operated
7 schools.

8 "(4) AGENT or REPRESENTATIVE. Salesperson who
9 presents materials, sells courses, or solicits students for
10 enrollment therefor in this state outside the boundaries of
11 the school facilities.

12 "(5) LICENSE. A private school license identifying
13 the name and location of the school and establishing the
14 courses which may be offered thereunder.

15 "(6) PERMIT. A pocket card issued to a
16 representative providing identification as an authorized agent
17 of a school.

18 "(7) ECONOMIC FRAUD. The sale of courses or programs
19 of study which an institution is unable or unwilling to
20 provide as advertised or described because of inadequate
21 financial stability, facilities, instructional staff, or
22 commitment to honor written or verbal contracts made with
23 students. Included is the solicitation of students for
24 enrollment through intentional deception or misrepresentation
25 of fact and the use of advertising which is known to be false,
26 inaccurate, or misleading. Failure to properly administer
27 student cancellation and refund policies according to

1 appropriate regulations or agreements made with students shall
2 also constitute economic fraud.

3 "(8) ACADEMIC FRAUD. Courses offered are
4 insufficient in quality, content, or administration to achieve
5 the stated or implied educational objective. Persons offering
6 such courses who know or reasonably should know that said
7 courses cannot achieve the stated or implied educational
8 objective shall be considered to be involved in academic
9 fraud.

10 "(9) RESIDENT PRIVATE SCHOOL. A school which is
11 domiciled within Alabama and has established for a period of
12 three years permanent administrative and management facilities
13 in this state.

14 "(10) PRINCIPAL BASE OF OPERATIONS. A school which
15 has established a main campus in Alabama. Administrative and
16 managerial support and physical plant facilities are
17 maintained continuously in this location. Franchises chartered
18 independently of parent corporations may be accorded this
19 status provided they comply with the residency requirements.

20 "(11) CHURCH SCHOOL. A school operated by a local
21 church, group of churches, denomination, and/or association of
22 churches on a nonprofit basis.

23 "§16-46-3.

24 "(a) This chapter shall not apply to any of the
25 following schools nor to any person in regard to the operation
26 of such schools, except for the conditions stated in this
27 section:

1 "(1) Schools operated on a nonprofit basis offering
2 only courses or programs of study in the performance of or
3 preparation for the ministry of any established church,
4 denomination, or religion.

5 "(2) Courses conducted by employers exclusively for
6 their employees and courses conducted by labor unions
7 exclusively for their members.

8 "(3) Schools offering instruction in grades K-12,
9 including the kindergarten, elementary, or secondary level and
10 operated by a parochial, denominational, or religious
11 organization, and/or as a ministry of a local church or group
12 of churches on a nonprofit basis.

13 "(4) Schools offering instruction in grades K-12,
14 including the kindergarten, elementary, or secondary level,
15 and operated by a community, educational organization, or
16 group of parents, organized as a nonprofit educational
17 corporation with the expectation of establishing a more
18 favorable environment for those in attendance.

19 "(5) Schools, colleges, and universities principally
20 operated and supported by the State of Alabama or its
21 political subdivisions.

22 "(6) Seminars and short courses sponsored or offered
23 by professional business, trade, or religious organizations
24 primarily for benefit of members thereof, or similar public
25 programs of training where the majority of the students have
26 at least half of their tuition and enrollment fees paid by

1 their employers, provided that evidence is supplied supporting
2 this exemption continuously over the preceding five years.

3 "(7) Any private school conducting resident courses
4 whose principal base of operation is within the State of
5 Alabama which has been in continuous operation for 20 years or
6 more as of ~~April 29, 1980~~ January 1, 2004, and that held
7 accreditation as of that date by an accrediting agency
8 recognized by the United States Department of Education.

9 "(8) Programs of study regulated by other state
10 boards, commissions, or agencies requiring school licensure
11 and/or performance bonding, except where the appropriate
12 regulatory agency requires a license under this chapter.

13 "(9) Any proprietary postsecondary institution
14 conducting resident courses that has been in operation within
15 Alabama for at least five years as of July 1, 2004, and that
16 is accredited by an accrediting agency recognized by the
17 United States Department of Education shall be accorded the
18 following provisions: Upon proof of such accreditation, such
19 schools shall be issued a license and representative permits
20 after required fees are paid to the Alabama Department of
21 Postsecondary Education. The requisite accreditation shall
22 satisfy the minimum standards of this chapter.

23 "(b) Any private school exempted in this section
24 shall retain the exempted status as long as the conditions of
25 exemption remain valid. An accredited private school or
26 program of study not elsewhere exempted whose accreditation is
27 withdrawn, suspended, or revoked shall forfeit its exemption

1 status until the grant of accreditation is restored. Due
2 process of the accrediting agency shall be allowed prior to
3 withdrawal of an exemption. Schools having accreditation
4 withheld as a result of transfer of ownership shall be allowed
5 a period of time to regain the grant in accordance with the
6 appropriate accrediting agency regulations.

7 "(c) An exemption pursuant to this section shall not
8 be construed to constitute approval or endorsement by the
9 State of Alabama for any purpose.

10 "(d) Exempted private schools may voluntarily
11 request to be licensed without surety as described in Sections
12 16-46-5 and 16-46-6.

13 "(e) Private schools which cease operations shall
14 place the student academic, attendance, and financial aid
15 records in the office of the appropriate school administrator
16 where a repository shall exist to safeguard and to make
17 available these records to authorized persons upon request as
18 follows:

19 "(1) Schools which merge, consolidate, or undergo
20 change of ownership shall deposit with the continuing school.

21 "(2) Schools which are a part of a system,
22 organization, franchise, or a ministry of a local church or a
23 group of churches shall deposit with the administrative office
24 thereof if such is to remain in operation.

25 "(3) Elementary and secondary schools without system
26 support shall deposit with the superintendent of the public
27 county or city within whose district the school is located.

1 "(4) Postsecondary, higher, and others not elsewhere
2 designated shall deposit with the Alabama Department of
3 Postsecondary Education."

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Education	09-FEB-10
Read for the second time and placed on the calen- dar 1 amendment	17-FEB-10
Read for the third time and passed as amended ...	23-FEB-10

Yeas 28
Nays 0

McDowell Lee
Secretary