

1 SB260
2 127242-1
3 By Senator Brewbaker
4 RFD: Education
5 First Read: 24-MAR-11

1 127242-1:n:03/16/2011:KMS*/tan LRS2011-1326

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8 SYNOPSIS: This bill would clarify the definitions of
9 profit and nonprofit schools and would allow
10 additional nonprofit schools to apply for exemption
11 from licensure.

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13 A BILL

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TO BE ENTITLED

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AN ACT

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17 To amend Sections 16-46-1 and 16-46-3, Code of
18 Alabama 1975, relating to the regulation of certain schools
19 and courses of instruction and exemptions from school
20 licensing; to clarify the definitions of profit and nonprofit
21 schools; and to allow additional nonprofit schools to apply
22 for exemption from licensure.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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"§16-46-1.

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

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

"(2) (4) AGENT or REPRESENTATIVE. Salesperson who presents materials, sells courses, or solicits students for enrollment ~~therefor in this state outside the boundaries of the school facilities of~~ students in the state in person, by mail, by correspondence, by telephone, online, by distance learning education, or by any other method of advertising within the state.

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

"(4) (1) COURSE. Any course, or portion of a plan or program of instruction, whether conducted in person, by mail, by correspondence, online, by distance learning education, or by any other method.

"(5) ~~(7)~~ ECONOMIC FRAUD. The sale of courses or programs of study which an institution is unable or unwilling to provide as advertised or described because of inadequate

1 financial stability, facilities, instructional staff, or
2 commitment to honor written or verbal contracts made with
3 students. Included is the solicitation of students for
4 enrollment through intentional deception or misrepresentation
5 of fact and the use of advertising which is known to be false,
6 inaccurate, or misleading. Failure to properly administer
7 student cancellation and refund policies according to
8 appropriate regulations or agreements made with students shall
9 also constitute economic fraud.

10 "(6) ~~(5)~~ LICENSE. A private school license
11 identifying the name and location of the school and
12 establishing the courses which may be offered thereunder.

13 "(7) ~~(6)~~ PERMIT. A pocket card issued to ~~a~~ an agent
14 or representative providing identification as an authorized
15 agent of a school.

16 "(8) ~~(10)~~ PRINCIPAL BASE OF OPERATIONS. A school
17 which has established a main campus in Alabama. Administrative
18 and managerial support and physical plant facilities are
19 maintained continuously in this location. Franchises chartered
20 independently of parent corporations may be accorded this
21 status provided they comply with the residency requirements.

22 "(9) ~~(3)~~ PRIVATE SCHOOL. Operation of either profit
23 or nonprofit entity as opposed to publicly owned or operated
24 schools.

25 "a. A profit entity includes any proprietary school
26 operated for profit by the owner or investors, excluding a

1 not-for-profit school, institution, religious organization, or
2 government entity.

3 "b. A nonprofit entity includes any school
4 established by a nonprofit charter or articles of
5 incorporation with bylaws establishing a nonprofit mode of
6 operation that is recognized by tax law as a nonprofit entity.

7 "(10) (9) RESIDENT PRIVATE SCHOOL. A COURSE. Any
8 course or sequence of courses of instruction offered by a
9 school which is domiciled within Alabama and has established
10 for a period of three years permanent administrative and
11 management facilities in this state.

12 "(11) (2) SCHOOL. Any person, group of people,
13 institution, establishment, agency, or organization offering
14 or administering a plan, course, or program of instruction
15 whether conducted in person, by mail, by correspondence,
16 online, by distance learning education, or by any other method
17 except the teaching of private lessons of instruction on a
18 singular subject, unless otherwise provided by law.

19 "§16-46-3.

20 "(a) This chapter shall not apply to any of the
21 following schools nor to any person in regard to the operation
22 of such schools, except for the conditions stated in this
23 section:

24 "(1) Schools operated on a nonprofit basis offering
25 only courses or programs of study in which do not lead to an
26 associate or baccalaureate degree and are limited in nature to

1 the performance of or preparation for the ministry of any
2 established church, denomination, or religion.

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

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

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

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

20 "(6) Seminars and short courses sponsored or offered
21 by professional business, trade, or religious organizations
22 primarily for benefit of members thereof, or similar public
23 programs of training where the majority of the students have
24 at least half of their tuition and enrollment fees paid by
25 their employers, provided that evidence is supplied supporting
26 this exemption continuously over the preceding five years.

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

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

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

25 "(b) Any private school exempted in this section
26 shall retain the exempted status as long as the conditions of
27 exemption remain valid. An accredited private school or

1 program of study not elsewhere exempted whose accreditation is
2 withdrawn, suspended, or revoked shall forfeit its exemption
3 status until the grant of accreditation is restored. Due
4 process of the accrediting agency shall be allowed prior to
5 withdrawal of an exemption. Schools having accreditation
6 withheld as a result of transfer of ownership shall be allowed
7 a period of time to regain the grant in accordance with the
8 appropriate accrediting agency regulations.

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

12 "(d) Exempted private schools may voluntarily
13 request to be licensed without surety as described in Sections
14 16-46-5 and 16-46-6.

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

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

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

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

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

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