

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2186
Proposed Committee Substitute PCS8438
Committee Substitute Favorable 6/12/90

Short Title: Proprietary School Regulation.

(Public)

Sponsors:

Referred to:

May 31, 1990

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS RELATING TO THE REGULATION OF
3 PROPRIETARY SCHOOLS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 115D-87 reads as rewritten:

6 "§ 115D-87. Definitions.

7 As used in this Article:

8 (1) 'Correspondence school' means an educational institution privately
9 owned and operated by an owner, partnership or corporation
10 conducted for the purpose of providing, by correspondence, for a
11 consideration, profit, or tuition, systematic instruction in any field or
12 teaches or instructs in any subject area through the medium of
13 correspondence between the ~~pupil~~-student and the school, usually
14 through printed or typewritten matter sent by the school and written
15 responses by the ~~pupil~~-student.

16 (2) 'Persons' means any individual, association, partnership or
17 corporation, and includes any receiver, referee, trustee, executor, or
18 administrator as well as a natural person.

19 (3) '~~Private-Proprietary~~ business school' or 'business school' ~~or 'school'~~
20 means an educational institution that (i) is privately owned and
21 operated by an owner, partnership or corporation, ~~offering~~ and (ii)
22 offers business and office related courses for which tuition is charged,

1 in such subjects as typewriting, manual or machine shorthand, filing and
 2 indexing, receptionist's duties, key punch, teletype, penmanship,
 3 bookkeeping, accounting, office machines, business arithmetic, English,
 4 business letter writing, salesmanship, personality development, leadership
 5 training, public speaking, real estate, insurance, traffic management,
 6 business psychology, economics, business management, subjects of a similar
 7 character business or office related subjects or subjects of general
 8 education when they contribute value to the objective of the course of
 9 study. Classes in any of the subjects herein referred to which are taught or
 10 taught in homes or elsewhere to five or less students are not included in the
 11 term "school" and shall be exempt from the requirements of this Article. If a
 12 school offers classes in more than one county, the school's operations
 13 in each such county shall constitute a separate school, as defined in
 14 this subdivision.

15 (4) 'Private Proprietary trade school' or 'trade school' means an
 16 educational institution that (i) is privately owned and operated by an
 17 owner, partnership or corporation, offering and (ii) offers classes
 18 conducted for the purpose of teaching, for profit or for a tuition charge,
 19 any trade, technical, mechanical or industrial occupation or teaching
 20 any or several of the subjects needed to train youths or adults in the
 21 skills, technical knowledge, knowledge and subjects, related industrial
 22 information, and job judgment, necessary for success in one or more
 23 skilled trades, industrial occupations or related occupations. If a school
 24 offers classes in more than one county, the school's operations in each
 25 such county shall constitute a separate school, as defined in this
 26 subdivision.

27 (5) 'Proprietary technical school', 'technical school', 'proprietary technical
 28 institute', or 'technical institute' means an educational institution that
 29 (i) is privately owned and operated by an owner, partnership or
 30 corporation, and (ii) offers classes conducted for the purpose of
 31 teaching, for profit or for a tuition charge, any technical occupation or
 32 teaching any or several of the subjects needed to train youths or adults
 33 in the skills, technical knowledge and subjects, related information,
 34 and job judgment, necessary for success in one or more technical or
 35 related occupations. If a school offers classes in more than one county,
 36 the school's operations in each such county shall constitute a separate
 37 school, as defined in this subdivision."

38 Sec. 2. G.S. 115D-88 reads as rewritten:

39 **"§ 115D-88. Exemptions.**

40 It is the purpose of this Article to include all private schools operated for profit:
 41 Provided, that the following schools shall be exempt from the provisions of this Article:

- 42 (1) Nonprofit schools conducted by bona fide eleemosynary or religious
 43 institutions.
- 44 (2) Schools maintained or classes conducted by employers for their own
 45 employees where no fee or tuition is ~~charged~~ charged to the student.

- 1 (3) Courses of instruction given by any fraternal society, civic club, or
2 benevolent order, which courses are not operated for profit.
- 3 (4) Any school for which there is another legally existing licensing or
4 approving board or agency in this State.
- 5 (4a) Classes or schools that are equipment-specific to purchasers, users,
6 classes, or schools offering training or instruction to acquaint
7 purchasers or users with equipment capabilities.
- 8 (4b) Classes or schools that are taught or coached in homes or elsewhere to
9 five or fewer students.
- 10 (4c) Classes or schools that the State Board, acting by and through the
11 President of the Community College System, determines are a
12 vocational, recreational, self-improvement, or continuing education for
13 already trained and occupationally qualified individuals.
- 14 (5) Any established university, professional, or liberal arts college, public
15 or private ~~high-school approved by the Department of Public Instruction,~~
16 regulated or recognized pursuant to Chapter 115C of the General
17 Statutes or by any other State Agency, or any State institution which
18 has heretofore offered, or which may hereinafter offer one or more
19 courses covered in this Article: Provided, that the tuition fees and
20 charges, if any, made by such university, college, high school, or State
21 institution shall be collected by their regular officers in accordance
22 with the rules ~~and regulations~~ prescribed by the board of trustees or
23 governing body of such university, college, high school, or State
24 institution; but provisions of the Article shall apply to all business
25 schools, proprietary trade schools, proprietary technical schools, or
26 correspondence schools or branch schools, as defined in this Article,
27 and operated within the State of North Carolina as such institutions,
28 except schools for which there are other legally existing licensing
29 boards or agencies."

30 Sec. 3. G.S. 115D-89 reads as rewritten:

31 "**§ 115D-89. State Board of Community Colleges to administer Article; issuance of**
32 **diplomas by schools; investigation and inspection; ~~regulations and~~**
33 **~~standards, rules.~~**

34 (a) The State Board of Community Colleges, acting by and through the President
35 of the ~~Department of Community Colleges, Community College System,~~ shall have
36 authority to administer and enforce this Article and to grant and issue licenses to ~~private~~
37 ~~schools and educational institutions, as the same are defined herein,~~ proprietary business
38 schools, proprietary trade schools, proprietary technical schools, and correspondence
39 schools, whose sustained curriculum is of a grade equal to that prescribed for similar
40 public schools and educational institutions of the State and which have met the
41 standards set forth by the Board, including but not limited to course offerings, adequate
42 facilities, financial stability, competent personnel and legitimate operating practices.

1 (b) Any such ~~private school or educational institution~~ proprietary business school,
2 proprietary trade school, proprietary technical school, or correspondence school, may by
3 and with the approval of the State Board issue certificates and diplomas.

4 (c) The State Board, acting by and through the President of the ~~Department of~~
5 ~~Community Colleges, Community College System,~~ shall formulate the criteria and the
6 standards evolved thereunder for the approval of such schools or educational
7 institutions, provide for adequate investigations of all schools applying for a license and
8 issue licenses to those applicants meeting the standards fixed by the Board, maintain a
9 list of schools approved under the provisions of this Article which list shall be available
10 for the information of the public, and provide for periodic inspection of all schools
11 licensed under the provisions of this Article. Through periodic reports required of
12 licensed schools ~~or branch schools~~—and by inspections made by authorized
13 representatives of the State Board of Community Colleges, the State Board of
14 Community Colleges shall have general supervision over business, ~~trade~~ trade,
15 technical, and correspondence schools in the State, the object of said supervision being
16 to protect the health, safety and welfare of the public by having the licensed business,
17 ~~trade~~ trade, technical, and correspondence schools maintain adequate, safe and sanitary
18 school quarters, sufficient and proper facilities and equipment, sufficient and qualified
19 teaching and administrative staff, and satisfactory programs of operation and
20 instruction, and to have the school carry out its advertised promises and contracts made
21 with its students and patrons. To this end the State Board of Community Colleges is
22 authorized to issue such ~~regulations and standards~~—rules not inconsistent with the
23 provisions of this Article as are necessary to administer the provisions of this Article.

24 The State Board, acting by and through the President of the Community College
25 System, may request any occupational licensing or approving board or agency in this
26 State to adopt rules requiring the approval of that board or agency for a course of study.
27 Under these rules, the board or agency shall pass on the adequacy of equipment,
28 curricula, and instructional personnel. The State Board of Community Colleges may
29 deny approval to a course of study that is not approved by such board or agency."

30 Sec. 4. G.S. 115D-90 reads as rewritten:

31 "**§ 115D-90. License required; application for license; school bulletins;**
32 **requirements for issuance of license; license restricted to courses**
33 **indicated; supplementary applications.**

34 (a) No person shall operate, conduct or maintain or offer to operate in this State a
35 ~~private school or educational institution as defined herein~~ proprietary trade school,
36 proprietary technical school, proprietary business school, or correspondence school,
37 unless a license is first secured from the State Board of Community Colleges ~~issued~~
38 granted in accordance with the provisions of this Article and the rules ~~and regulations~~
39 ~~promulgated~~ adopted by the Board under the authority of G.S. ~~115C-570-115D-89.~~ The
40 license, when issued, shall constitute the formal acceptance by the Board of the
41 educational programs and facilities of each ~~private school~~ approved.

42 (b) Application for a license shall be filed in the manner and upon the forms
43 prescribed and furnished by the President of the ~~Department of Community Colleges~~
44 Community College System for that purpose. Such application shall be signed by the

1 applicant and properly verified and shall contain such of the following information as
2 may apply to the particular school ~~or branch school~~, for which a license is sought:

- 3 (1) The title or name of the school or classes, together with the name and
4 address of the owners and of the controlling officers thereof.
- 5 (2) The general field of instruction.
- 6 (3) The place or places where such instruction will be given.
- 7 (4) A specific listing of the equipment available for instruction in each
8 field.
- 9 (5) The qualifications of instructors and supervisors.
- 10 (6) Financial resources available to equip and to maintain the school or
11 classes.
- 12 (7) Such additional information as the State ~~Board~~ Board, acting by and
13 through the President of the Community College System, may deem
14 necessary to enable it to determine the adequacy of the program of
15 instruction and matters pertaining thereto. Each application shall be
16 accompanied by a copy of the current bulletin or catalog of the school
17 which shall be in published form and certified by an authorized official
18 of the school as being ~~true~~ true, and correct in content and
19 policy. The school bulletin shall contain the following information:
 - 20 a. Identifying data, such as volume number and date of
21 publication.
 - 22 b. Names of the institution and its governing body, officials and
23 faculty.
 - 24 c. A calendar of the institution showing legal holidays, beginning
25 and ending date of each quarter, term or semester, and other
26 important dates.
 - 27 d. Institution's policy and regulations relative to leave, absences,
28 class cuts, make-up work, tardiness and interruptions for
29 unsatisfactory attendance.
 - 30 e. Institution's policy and regulations on enrollment with respect
31 to enrollment dates and specific entrance requirements for each
32 course.
 - 33 f. Institution's policy and regulations relative to standards of
34 progress required of the student by the institution. This policy
35 will define the grading system of the institution; the minimum
36 grades considered satisfactory; conditions for interruption for
37 unsatisfactory grades or progress and description of the
38 probationary period, if any, allowed by the institution; and
39 conditions of reentrance for those students dismissed for
40 unsatisfactory progress. A statement will be made regarding
41 progress records kept by the institution and furnished the
42 student.
 - 43 g. Institution's policy and regulations relating to student conduct
44 and conditions for dismissal for unsatisfactory conduct.

- 1 h. Detailed schedule for fees, charges for tuition, books, supplies,
2 tools, student activities, laboratory fees, service charges, rentals,
3 deposits, and all other charges.
- 4 i. Policy and regulations of the institution relative to the refund of
5 the unused portion of tuition, fees and other charges in the event
6 the student does not enter the course or withdraws or is
7 discontinued therefrom.
- 8 j. A description of the available space, facilities and equipment.
- 9 k. A course outline for each course for which approval is
10 requested, ~~showing~~ showing:
- 11 1. ~~subjects~~ Subjects or units in the course,
12 2. ~~type~~ Type of skill ~~or skill~~ to be learned, and
13 3. ~~approximate time and~~ Approximate (i) time; (ii) clock
14 ~~hours~~ hours, and (iii) credit hours or credit hours
15 equivalent, as appropriate, to be spent on each subject or
16 unit.
- 17 l. Policy and regulations of the institution relative to granting
18 credit for previous educational training.

19 (c) After due investigation and consideration on the part of the State ~~Board~~
20 Board, acting by and through the President of the Community College System, as
21 provided herein, a license shall be ~~issued~~ granted to the applicant when it is shown to the
22 satisfaction of said Board that said applicant, school, programs of study or courses are
23 found to have met the following criteria:

- 24 (1) The courses, curriculum and instruction are consistent in quality,
25 content and length with similar courses in public schools and other
26 private schools in the State, with recognized accepted standards.
- 27 (2) There is in the institution adequate space, equipment, instructional
28 material and instructor personnel to provide training of good quality.
- 29 (3) Education and experience qualifications of director, administrators and
30 instructors are adequate.
- 31 (4) The institution maintains a written record of the previous education
32 and training of the student.
- 33 (5) A copy of the course outline, schedule of tuition, fees and other
34 charges, regulations pertaining to absences, grading policy and rules of
35 operation and conduct will be furnished the student upon enrollment.
- 36 (6) Upon completion of training, the student is given a certificate or
37 diploma by the institution indicating the approved course or subjects
38 and indicating that training was satisfactorily completed.
- 39 (7) Adequate records as prescribed by the State Board of Community
40 ~~Colleges~~ Colleges, acting by and through the President of the
41 Community College System, are kept to show attendance and progress
42 or grades and satisfactory standards relating to attendance, progress
43 and conduct are enforced.

- 1 (8) The school complies with all local, city, county, municipal, State and
 2 federal regulations, such as fire codes, building and sanitation codes.
 3 The State Board of Community Colleges may require such evidence of
 4 compliance as is deemed necessary.
- 5 (9) The school is financially sound and capable of fulfilling its
 6 commitments for training.
- 7 (10) The school does not exceed its enrollment limitation as established by
 8 the State Board of Community Colleges.
- 9 (11) The school does not utilize advertising of any type which is erroneous
 10 or misleading, either by actual statement, omission or intimation.
- 11 (12) The school's administrators, directors, owners and instructors are of
 12 good reputation and character.
- 13 (13) Such additional criteria as may be deemed necessary by the State
 14 Board.

15 (d) Any license issued shall be restricted to the programs of instruction or courses
 16 or subjects specifically indicated in the application for a license. The holder of a license
 17 shall present a supplementary application as may be directed by the President of the
 18 ~~Department of Community Colleges~~ Community College System for approval of
 19 additional programs of ~~instruction or courses~~ instruction, courses, or subjects, in which it
 20 is desired to offer instruction during the effective period of the license."

21 Sec. 5. G.S. 115D-91 reads as rewritten:

22 "**§ 115D-91. Duration and renewal of licenses; notice of change of ownership,**
 23 **administration, etc.; license not transferable.**

24 (a) All licenses issued shall expire on June 30 next following the date of
 25 issuance.

26 (b) Licenses shall be renewable annually on July 1: Provided, an application for
 27 the renewal of the license has been filed in the form and manner prescribed by the State
 28 ~~Board~~ Board, acting by and through the President of the Community College System,
 29 and the renewal fee has been paid: Provided, further that the school and its courses,
 30 facilities, faculty and all other operations are found to meet the criteria set forth in the
 31 requirements for a school to secure an original license.

32 (c) After a license is ~~issued~~ granted to any school by the State Board of
 33 Community Colleges on the basis of its application, it shall be the responsibility of said
 34 school to notify immediately said Board of any changes in the ownership,
 35 administration, location, faculty, the instructional program or other changes as may
 36 affect significantly the course of instruction offered.

37 (d) In the event of the sale of such school, the license already granted to the
 38 original owner or operators thereof shall not be transferable to the new ownership or
 39 operators. Provided, however, the President of the Community College System may
 40 issue a 90-day, temporary operating license to a school upon its sale if the school held a
 41 valid, current license prior to the sale, and if the President finds that the school is likely
 42 to qualify after the sale for a license under this Article."

43 Sec. 6. G.S. 115D-92 reads as rewritten:

1 **"§ 115D-92. Authority to establish fees; Commercial Education Fund established;**
2 **refund of fees.**

3 The State Board of Community Colleges shall establish reasonable fees for licenses,
4 renewals, and approvals granted, and for inspections performed pursuant to this Article.

5 The fees and licenses collected under this section shall be placed in a special fund to
6 be designated the 'Commercial Education Fund' and shall be used under the supervision
7 and direction of the State Board of Community Colleges for the administration of this
8 Article. No license fee shall be refunded in the event the application is rejected or the
9 license suspended or revoked."

10 Sec. 7. G.S. 115D-93 reads as rewritten:

11 **"§ 115D-93. Suspension, revocation or refusal of license; notice and hearing;**
12 **judicial review; grounds.**

13 (a) A refusal to issue, refusal to renew, suspension of, or revocation of a license
14 under this section shall be made in accordance with Chapter 150B of the General
15 Statutes.

16 (b) A decision under this section to refuse to grant, refuse to renew, suspend, or
17 revoke a license is subject to judicial review in accordance with Article 4 of Chapter
18 150B of the General Statutes.

19 (c) The State Board, acting by and through the President of the ~~Department of~~
20 ~~Community Colleges, Community College System,~~ shall have the power to refuse to issue
21 or renew any such license and to suspend or revoke any such license theretofore issued
22 in case it finds one or more of the following:

23 (1) That the applicant for or holder of such a license has violated any of
24 the provisions of this Article or any of the rules ~~and regulations~~
25 promulgated thereunder.

26 (2) That the applicant for or holder of such a license has knowingly
27 presented to the State Board of Community Colleges false or
28 misleading information relating to ~~approval~~ approval or license.

29 (3) That the applicant for or holder of such a license has failed or refused
30 to permit authorized representatives of the State Board of Community
31 Colleges to inspect the school, or has refused to make available to
32 them at any time upon request full information pertaining to matters
33 within the purview of the State Board of Community Colleges under
34 the provisions of this Article.

35 (4) That the applicant for or holder of such a license has perpetrated or
36 committed fraud or deceit in advertising the school or in presenting to
37 the prospective students written or oral information relating to the
38 school, to employment opportunities, or to opportunities for
39 enrollment in other institutions upon completion of the instruction
40 offered in the school.

41 (5) That the applicant or licensee has pleaded guilty, entered a plea of **nolo**
42 **contendere** or has been found guilty of a crime involving moral
43 turpitude by a judge or jury in any state or federal court.

- 1 (6) That the applicant or licensee has failed to provide or maintain
 2 premises, equipment or conditions which are adequate, safe and
 3 sanitary, in accordance with such standards of the State of North
 4 Carolina or any of its political subdivisions, as are applicable to such
 5 premises and equipment.
- 6 (7) That the licensee is employing teachers, supervisors or administrators
 7 who have not been approved by the State ~~Board~~ Board, acting by and
 8 through the President of the Community College System.
- 9 (8) That the licensee has failed to provide and maintain adequate premises,
 10 equipment, materials or supplies, or has exceeded the maximum
 11 enrollment for which the school or class was licensed.
- 12 (9) That the licensee has failed to provide and maintain adequate standards
 13 of instruction or an adequate and qualified administrative, supervisory
 14 or teaching staff."

15 Sec. 8. G.S. 115D-95 reads as rewritten:

16 **"§ 115D-95. Execution of bond required; filing and recording; actions upon bond.**

17 (a) Before the State Board of Community Colleges shall issue such license the
 18 person, partnership, association of persons, or corporation shall execute a bond in the
 19 sum of one thousand dollars (\$1,000), signed by a solvent guaranty company authorized
 20 to do business in the State of North Carolina, or by two solvent individual sureties,
 21 payable to the State of North Carolina, and approved as to solvency by the clerk of the
 22 superior court of the county in which such school ~~or branch school~~ will be located and
 23 conduct its business, conditioned that the principal in said bond will carry out and
 24 comply with each and every contract, made and entered into by said school ~~or branch~~
 25 ~~school~~, acting by and through its officers and agents with any student who desires to
 26 enter such school ~~or branch school~~ and to take any courses offered therein and will pay
 27 back to such student all amounts collected in tuition and fees in case of failure on the
 28 part of the parties obtaining a license from the State Board of Community Colleges to
 29 open and conduct a proprietary business school, proprietary technical school,
 30 proprietary trade school-school, or a correspondence school, to comply with its contracts
 31 to give the instructions contracted for, and for full period evidenced by such contract.
 32 Such bond shall be filed with the clerk of the superior court of the county in which the
 33 school ~~or branch school~~ executing the bond is located, and shall be recorded by such
 34 clerk in a book provided for that purpose.

35 (b) The requirement herein specified for giving the aforesaid bond of one
 36 thousand dollars (\$1,000) shall apply to all proprietary business, proprietary technical,
 37 proprietary trade-trade, or correspondence schools, ~~or any branches thereof~~ operating in
 38 North Carolina, and the State Board of Community Colleges shall not issue any license
 39 to any person, firm or corporation to operate any of the aforesaid schools until said bond
 40 has been given and notice of the approval of same by the clerk of the superior court has
 41 been filed with said Board of Community Colleges. Operator bonds of one thousand
 42 dollars (\$1,000) each shall be required for each ~~branch of such~~ proprietary business,
 43 proprietary technical, proprietary trade, or correspondence schools, ~~or any branch thereof~~
 44 school, operated within the State by any person, partnership or corporation.

1 (c) In any and all cases where the party receiving the license from the State
2 Board of Community Colleges fails to comply with any contract made and entered into
3 with any student, or with the parents or guardian of said student, then the State of North
4 Carolina upon the relation of said student, parent or guardian entering into the contract
5 shall have a cause of action against the principal and sureties on the bonds herein
6 provided for the full amount of payments made to such person, with six percent (6%)
7 interest from the date of payment of said amount. For a violation of its contract with a
8 student, or for other good cause, the State Board of Community Colleges is authorized
9 to revoke the license issued to the offending school."

10 Sec. 9. G.S. 115D-96 reads as rewritten:

11 **"§ 115D-96. Operating school without license or bond made misdemeanor.**

12 Any person, or each member of any association of persons or each officer of any
13 corporation who opens and conducts a proprietary business school, a proprietary
14 technical school, a proprietary trade school-school, or a correspondence school, ~~or branch~~
15 ~~school as defined in this Article,~~ without first having obtained the license herein required,
16 and without first having executed the bond required, shall be guilty of a misdemeanor
17 and be punishable by a fine of not less than one hundred dollars (\$100.00), nor more
18 than five hundred dollars (\$500.00) or 30 days imprisonment, or both, at the discretion
19 of the court, and each day said school continues to be open and operated shall constitute
20 a separate offense."

21 Sec. 10. G.S. 115D-97 reads as rewritten:

22 **"§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made**
23 **null and void.**

24 All contracts entered into by proprietary business, trade-proprietary technical,
25 proprietary trade, or correspondence schools, ~~or branch school,~~ as defined in this Article,
26 with students or prospective students, and all promissory notes or other evidence of
27 indebtedness taken in lieu of cash payments by such schools shall be null and void
28 unless such schools are duly licensed as required by this Article."

29 Sec. 11. This act shall become effective October 1, 1990.