

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1474

Short Title: Proprietary School Regulation.

(Public)

Sponsors: Senator Martin of Guilford; Chalk and Conder.

Referred to: Higher Education.

June 4, 1990

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

The General Assembly of North Carolina enacts:

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

"§ 115D-87. Definitions.

As used in this Article:

- (1) 'Correspondence school' means an educational institution privately owned and operated by an owner, partnership or corporation conducted for the purpose of providing, by correspondence, for a consideration, profit, or tuition, systematic instruction in any field or teaches or instructs in any subject area through the medium of correspondence between the ~~pupil~~student and the school, usually through printed or typewritten matter sent by the school and written responses by the ~~pupil~~student.
- (2) 'Persons' means any individual, association, partnership or corporation, and includes any receiver, referee, trustee, executor, or administrator as well as a natural person.
- (3) '~~Private~~Proprietary business school' or 'business school' ~~or "school"~~ means an educational institution that is (i) located within a single county, (ii) privately owned and operated by an owner, partnership or corporation, and (iii) offering business and office related courses for which tuition is charged, in such subjects as typewriting, manual or machine shorthand, filing and indexing, receptionist's duties, key-

1 ~~punch, teletype, penmanship, bookkeeping, accounting, office machines,~~
 2 ~~business arithmetic, English, business letter writing, salesmanship,~~
 3 ~~personality development, leadership training, public speaking, real estate,~~
 4 ~~insurance, traffic management, business psychology, economics, business~~
 5 ~~management, subjects of a similar character—business or office related~~
 6 subjects or subjects of general education when they contribute value to
 7 the objective of the course of study. Classes in any of the subjects herein
 8 referred to which are taught or coached in homes or elsewhere to five or less
 9 students are not included in the term "school" and shall be exempt from the
 10 requirements of this Article.

11 (4) ~~'Private—Proprietary trade school' or 'trade school'~~ means an
 12 educational institution that is (i) located within a single county, (ii)
 13 privately owned and operated by an owner, partnership or corporation,
 14 and (iii) offering classes conducted for the purpose of teaching, for
 15 profit or for a tuition charge, any trade, ~~technical, mechanical or~~
 16 industrial occupation or teaching any or several of the subjects needed
 17 to train youths or adults in the skills, ~~technical knowledge, knowledge~~
 18 and subjects, related industrial information, and job judgment,
 19 necessary for success in one or more skilled trades, industrial
 20 occupations or related occupations.

21 (5) 'Proprietary technical school', 'technical school', 'proprietary technical
 22 institute', or 'technical institute' means an educational institution that is
 23 (i) located within a single county, (ii) privately owned and operated by
 24 an owner, partnership or corporation, and (iii) offering classes
 25 conducted for the purpose of teaching, for profit or for a tuition charge,
 26 any technical occupation or teaching any or several of the subjects
 27 needed to train youths or adults in the skills, technical knowledge and
 28 subjects, related information, and job judgment, necessary for success
 29 in one or more technical or related occupations."

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

31 **"§ 115D-88. Exemptions.**

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

- 34 (1) Nonprofit schools conducted by bona fide eleemosynary or religious
 35 institutions.
 36 (2) Schools maintained or classes conducted by employers for their own
 37 employees where no fee or tuition is ~~charged. charged to the student.~~
 38 (3) Courses of instruction given by any fraternal society, civic club, or
 39 benevolent order, which courses are not operated for profit.
 40 (4) Any school for which there is another legally existing licensing or
 41 approving board or agency in this State.
 42 (4a) Classes or schools that are equipment-specific to purchasers, users,
 43 classes, or schools offering training or instruction to acquaint
 44 purchasers or users with equipment capabilities.

- 1 (4b) Classes or schools that are taught or coached in homes or elsewhere to
 2 five or fewer students.
- 3 (4c) Classes or schools that the State Board, acting by and through the
 4 President of the Community College System, determines are a
 5 vocational, recreational, self-improvement, or continuing education for
 6 already trained and occupationally qualified individuals.
- 7 (5) Any established university, professional, or liberal arts college, public
 8 or private high school approved by the Department of Public
 9 ~~Instruction, Instruction~~ or other State agency, or any State institution
 10 which has heretofore offered, or which may hereinafter offer one or
 11 more courses covered in this Article: Provided, that the tuition fees
 12 and charges, if any, made by such university, college, high school, or
 13 State institution shall be collected by their regular officers in
 14 accordance with the rules ~~and regulations~~ prescribed by the board of
 15 trustees or governing body of such university, college, high school, or
 16 State institution; but provisions of the Article shall apply to all
 17 business schools, proprietary trade schools, proprietary technical
 18 schools, or correspondence schools ~~or branch schools~~, as defined in this
 19 Article, and operated within the State of North Carolina as such
 20 institutions, except schools for which there are other legally existing
 21 licensing boards or agencies."

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

23 "**§ 115D-89. State Board of Community Colleges to administer Article; issuance of**
 24 **diplomas by schools; investigation and inspection; ~~regulations and~~**
 25 **~~standards. rules.~~**

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

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

38 (c) The State Board, acting by and through the President of the ~~Department of~~
 39 ~~Community Colleges, Community College System,~~ shall formulate the criteria and the
 40 standards evolved thereunder for the approval of such schools or educational
 41 institutions, provide for adequate investigations of all schools applying for a license and
 42 issue licenses to those applicants meeting the standards fixed by the Board, maintain a
 43 list of schools approved under the provisions of this Article which list shall be available
 44 for the information of the public, and provide for periodic inspection of all schools

1 licensed under the provisions of this Article. Through periodic reports required of
2 licensed schools ~~or branch schools~~—and by inspections made by authorized
3 representatives of the State Board of Community Colleges, the State Board of
4 Community Colleges shall have general supervision over business, ~~trade~~—trade,
5 technical, and correspondence schools in the State, the object of said supervision being
6 to protect the health, safety and welfare of the public by having the licensed business,
7 ~~trade~~—trade, technical, and correspondence schools maintain adequate, safe and sanitary
8 school quarters, sufficient and proper facilities and equipment, sufficient and qualified
9 teaching and administrative staff, and satisfactory programs of operation and
10 instruction, and to have the school carry out its advertised promises and contracts made
11 with its students and patrons. To this end the State Board of Community Colleges is
12 authorized to issue such ~~regulations and standards~~—rules not inconsistent with the
13 provisions of this Article as are necessary to administer the provisions of this Article.

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

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

21 "**§ 115D-90. License required; application for license; school bulletins;**
22 **requirements for issuance of license; license restricted to courses**
23 **indicated; supplementary applications.**

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

32 (b) Application for a license shall be filed in the manner and upon the forms
33 prescribed and furnished by the President of the ~~Department of Community Colleges~~
34 Community College System for that purpose. Such application shall be signed by the
35 applicant and properly verified and shall contain such of the following information as
36 may apply to the particular school ~~or branch school,~~ for which a license is sought:

- 37 (1) The title or name of the school or classes, together with the name and
38 address of the owners and of the controlling officers thereof.
- 39 (2) The general field of instruction.
- 40 (3) The place or places where such instruction will be given.
- 41 (4) A specific listing of the equipment available for instruction in each
42 field.
- 43 (5) The qualifications of instructors and supervisors.

- 1 (6) Financial resources available to equip and to maintain the school or
2 classes.
- 3 (7) Such additional information as the State ~~Board~~ Board, acting by and
4 through the President of the Community College System, may deem
5 necessary to enable it to determine the adequacy of the program of
6 instruction and matters pertaining thereto. Each application shall be
7 accompanied by a copy of the current bulletin or catalog of the school
8 which shall be in published form and certified by an authorized official
9 of the school as being ~~true~~ current, true, and correct in content and
10 policy. The school bulletin shall contain the following information:
11 a. Identifying data, such as volume number and date of
12 publication.
13 b. Names of the institution and its governing body, officials and
14 faculty.
15 c. A calendar of the institution showing legal holidays, beginning
16 and ending date of each quarter, term or semester, and other
17 important dates.
18 d. Institution's policy and regulations relative to leave, absences,
19 class cuts, make-up work, tardiness and interruptions for
20 unsatisfactory attendance.
21 e. Institution's policy and regulations on enrollment with respect
22 to enrollment dates and specific entrance requirements for each
23 course.
24 f. Institution's policy and regulations relative to standards of
25 progress required of the student by the institution. This policy
26 will define the grading system of the institution; the minimum
27 grades considered satisfactory; conditions for interruption for
28 unsatisfactory grades or progress and description of the
29 probationary period, if any, allowed by the institution; and
30 conditions of reentrance for those students dismissed for
31 unsatisfactory progress. A statement will be made regarding
32 progress records kept by the institution and furnished the
33 student.
34 g. Institution's policy and regulations relating to student conduct
35 and conditions for dismissal for unsatisfactory conduct.
36 h. Detailed schedule for fees, charges for tuition, books, supplies,
37 tools, student activities, laboratory fees, service charges, rentals,
38 deposits, and all other charges.
39 i. Policy and regulations of the institution relative to the refund of
40 the unused portion of tuition, fees and other charges in the event
41 the student does not enter the course or withdraws or is
42 discontinued therefrom.
43 j. A description of the available space, facilities and equipment.

- 1 k. A course outline for each course for which approval is
2 requested, ~~showing~~ showing:
- 3 1. ~~subjects~~ Subjects or units in the course,
 - 4 2. ~~type~~ Type of skill or skill to be learned, and
 - 5 3. ~~approximate time and~~ Approximate (i) time; (ii) clock
6 hours—hours, and (iii) credit hours or credit hours
7 equivalent, as appropriate, to be spent on each subject or
8 unit.
- 9 1. Policy and regulations of the institution relative to granting
10 credit for previous educational training.

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

- 16 (1) The courses, curriculum and instruction are consistent in quality,
17 content and length with similar courses in public schools and other
18 private schools in the State, with recognized accepted standards.
- 19 (2) There is in the institution adequate space, equipment, instructional
20 material and instructor personnel to provide training of good quality.
- 21 (3) Education and experience qualifications of director, administrators and
22 instructors are adequate.
- 23 (4) The institution maintains a written record of the previous education
24 and training of the student.
- 25 (5) A copy of the course outline, schedule of tuition, fees and other
26 charges, regulations pertaining to absences, grading policy and rules of
27 operation and conduct will be furnished the student upon enrollment.
- 28 (6) Upon completion of training, the student is given a certificate or
29 diploma by the institution indicating the approved course or subjects
30 and indicating that training was satisfactorily completed.
- 31 (7) Adequate records as prescribed by the State Board of Community
32 Colleges—Colleges, acting by and through the President of the
33 Community College System, are kept to show attendance and progress
34 or grades and satisfactory standards relating to attendance, progress
35 and conduct are enforced.
- 36 (8) The school complies with all local, city, county, municipal, State and
37 federal regulations, such as fire codes, building and sanitation codes.
38 The State Board of Community Colleges may require such evidence of
39 compliance as is deemed necessary.
- 40 (9) The school is financially sound and capable of fulfilling its
41 commitments for training.
- 42 (10) The school does not exceed its enrollment limitation as established by
43 the State Board of Community Colleges.

1 (11) The school does not utilize advertising of any type which is erroneous
2 or misleading, either by actual statement, omission or intimation.

3 (12) The school's administrators, directors, owners and instructors are of
4 good reputation and character.

5 (13) Such additional criteria as may be deemed necessary by the State
6 Board.

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

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

14 "**§ 115D-91. Duration and renewal of licenses; notice of change of ownership,**
15 **administration, etc.; license not transferable.**

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

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

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

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

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

36 "**§ 115D-92. Authority to establish fees; Commercial Education Fund established;**
37 **refund of fees.**

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

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

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

2 "**§ 115D-93. Suspension, revocation or refusal of license; notice and hearing;**
3 **judicial review; grounds.**

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

7 (b) A decision under this section to refuse to grant, refuse to renew, suspend, or
8 revoke a license is subject to judicial review in accordance with Article 4 of Chapter
9 150B of the General Statutes.

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

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

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

20 (3) That the applicant for or holder of such a license has failed or refused
21 to permit authorized representatives of the State Board of Community
22 Colleges to inspect the school, or has refused to make available to
23 them at any time upon request full information pertaining to matters
24 within the purview of the State Board of Community Colleges under
25 the provisions of this Article.

26 (4) That the applicant for or holder of such a license has perpetrated or
27 committed fraud or deceit in advertising the school or in presenting to
28 the prospective students written or oral information relating to the
29 school, to employment opportunities, or to opportunities for
30 enrollment in other institutions upon completion of the instruction
31 offered in the school.

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

35 (6) That the applicant or licensee has failed to provide or maintain
36 premises, equipment or conditions which are adequate, safe and
37 sanitary, in accordance with such standards of the State of North
38 Carolina or any of its political subdivisions, as are applicable to such
39 premises and equipment.

40 (7) That the licensee is employing teachers, supervisors or administrators
41 who have not been approved by the State ~~Board~~ Board, acting by and
42 through the President of the Community College System.

1 (8) That the licensee has failed to provide and maintain adequate premises,
2 equipment, materials or supplies, or has exceeded the maximum
3 enrollment for which the school or class was licensed.

4 (9) That the licensee has failed to provide and maintain adequate standards
5 of instruction or an adequate and qualified administrative, supervisory
6 or teaching staff."

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

8 **"§ 115D-95. Execution of bond required; filing and recording; actions upon bond.**

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

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

37 (c) In any and all cases where the party receiving the license from the State
38 Board of Community Colleges fails to comply with any contract made and entered into
39 with any student, or with the parents or guardian of said student, then the State of North
40 Carolina upon the relation of said student, parent or guardian entering into the contract
41 shall have a cause of action against the principal and sureties on the bonds herein
42 provided for the full amount of payments made to such person, with six percent (6%)
43 interest from the date of payment of said amount. For a violation of its contract with a

1 student, or for other good cause, the State Board of Community Colleges is authorized
2 to revoke the license issued to the offending school."

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

4 **"§ 115D-96. Operating school without license or bond made misdemeanor.**

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

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

15 **"§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made**
16 **null and void.**

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

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