

SUBSTITUTE FOR
HOUSE BILL NO. 5995

A bill to amend 1943 PA 148, entitled

"An act to provide for the regulation and licensing of proprietary schools in the state; to require surety; to provide for collection and disposition of fees; and to prescribe penalties for the violation of this act,"

by amending the title and sections 1, 1a, 2, 2a, 2b, and 3 (MCL 395.101, 395.101a, 395.102, 395.102a, 395.102b, and 395.103), the title and sections 1, 2, 2a, 2b, and 3 as amended and section 1a as added by 1983 PA 60, and by adding sections 2c and 2d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to provide for the regulation and licensing of

3

~~proprietary~~ **CAREER** schools in the state; **TO PROVIDE FOR THE POWERS**

1 **AND DUTIES OF CERTAIN STATE GOVERNMENTAL OFFICERS AND ENTITIES;** to
2 require surety; to provide for collection and disposition of fees;
3 and to prescribe penalties **AND ADMINISTRATIVE FINES** for ~~the~~
4 ~~violation~~-**VIOLATIONS** of this act.

5 Sec. 1. (1) ~~A proprietary school shall secure from the board a~~
6 ~~license issued in the form prescribed by the board and in~~
7 ~~accordance with this act.~~ **A CAREER SCHOOL SHALL NOT OPERATE IN THIS**
8 **STATE WITHOUT A LICENSE OR TEMPORARY PERMIT FROM THE DEPARTMENT**
9 **UNDER THIS ACT. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF LICENSE**
10 **AND TEMPORARY PERMIT.**

11 (2) A license issued under this act ~~shall be~~ **IS NOT** valid for
12 ~~not~~ more than 1 year. ~~If the applicant~~ **THE DEPARTMENT MAY RENEW THE**
13 **LICENSE OF A CAREER SCHOOL THAT** continues to comply with this act
14 and the rules promulgated under this act. ~~, the license may be~~
15 ~~renewed.~~

16 (3) ~~The license may be revoked~~ **DEPARTMENT MAY REVOKE A LICENSE**
17 **GRANTED UNDER THIS ACT** at any time if, in the judgment of the ~~board~~
18 **DEPARTMENT**, the ~~person~~ **CAREER SCHOOL** to whom ~~whom~~ **WHICH** the license is
19 issued is not complying with ~~provisions of the~~ **ANY APPLICABLE** law
20 or the rulings of the ~~board~~ **DEPARTMENT.**

21 (4) ~~A person shall not be granted~~ **EXCEPT AS PROVIDED IN**
22 **SECTION 2D, THE DEPARTMENT SHALL NOT GRANT** a temporary permit or a
23 license to ~~operate a proprietary~~ **CAREER** school **THAT OPERATES** as
24 part of, or in conjunction with, another business or commercial
25 enterprise ~~which~~ **THAT** utilizes or sells goods or services produced
26 by students.

27 Sec. 1a. (1) **THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE**

1 **"CAREER SCHOOLS ACT".**

2 (2) As used in this act:

3 ~~(a) "Board" means the state board of education.~~

4 ~~(b) "Person" means an individual, partnership, corporation,~~
5 ~~association, organization, or other legal entity.~~

6 (A) ~~(c) "Proprietary "CAREER school" means a PRIVATE BUSINESS~~
7 ~~SCHOOL, TRADE SCHOOL, HOME STUDY SCHOOL, OR OTHER school that uses~~
8 ~~a certain plan or method to teach a trade, occupation, or vocation~~
9 ~~OR OCCUPATIONAL SKILLS for a consideration, reward, or promise of~~
10 ~~whatever nature ANY KIND. Proprietary school includes, but is not~~
11 ~~limited to, a private business, trade, or home study school.~~

12 Proprietary CAREER school does not include **ANY OF** the following:

13 (i) A school or college possessing authority to grant degrees.

14 (ii) A school licensed **OR APPROVED** by law through another board
15 **OR DEPARTMENT** of this state.

16 (iii) A school maintained or a program conducted, without
17 profit, by a person for that person's employees.

18 (B) **"DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND ECONOMIC**
19 **GROWTH.**

20 Sec. 2. (1) ~~A license shall not be issued until the applicant~~
21 **THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO A CAREER SCHOOL UNDER**
22 **THIS ACT UNLESS THE CAREER SCHOOL has operated IN THIS STATE** under
23 a temporary permit **FROM THE DEPARTMENT** in a manner satisfactory to
24 the ~~board~~ **DEPARTMENT** and ~~until the board~~ **DEPARTMENT** has approved
25 the method and content of the advertising, the standards and the
26 methods of instruction, the personnel, and the operating and
27 instructional practices of the school.

1 (2) ~~A~~ **THE DEPARTMENT MAY GRANT A** temporary permit to operate
 2 **AS** a ~~proprietary CAREER~~ school ~~may be granted on the basis of~~ **BASED**
 3 **ON** a written proposal submitted in the manner and form prescribed
 4 by the ~~board~~ **DEPARTMENT**. The proposal shall include plans for
 5 facilities, instructional procedures, personnel, business
 6 standards, and operating and instructional practices ~~which~~ **THAT**
 7 comply with this act and with rules promulgated under this act. A
 8 temporary permit issued under this act ~~shall be~~ **IS NOT** valid for
 9 ~~not~~ more than 1 year. ~~If the applicant~~ **THE DEPARTMENT MAY RENEW THE**
 10 **TEMPORARY PERMIT OF A CAREER SCHOOL THAT** continues to comply with
 11 this act and the rules promulgated under this act. ~~, a temporary~~
 12 ~~permit may be renewed.~~

13 Sec. 2a. (1) The ~~board~~ **DEPARTMENT** shall provide for adequate
 14 inspection of all ~~proprietary CAREER~~ schools. The ~~board~~ **DEPARTMENT**
 15 shall promulgate rules ~~pursuant to~~ **UNDER** the administrative
 16 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
 17 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws 1969~~
 18 **PA 306, MCL 24.201 TO 24.328**, and employ the personnel necessary to
 19 ~~carry out~~ **ADMINISTER** this act. A ~~proprietary CAREER~~ school shall
 20 submit reports required by the ~~board~~ **DEPARTMENT** and shall make
 21 available to authorized representatives of the ~~board~~ **DEPARTMENT** all
 22 records pertaining to the instructional program of the school or to
 23 any individual student or enrollee.

24 (2) The ~~board~~ **DEPARTMENT** shall set and collect fees for
 25 licenses, temporary permits, and renewals issued under this act.
 26 The fees shall be used solely for administrative expenses incurred
 27 under this act.

1 (3) The ~~board~~ **DEPARTMENT** shall exercise jurisdiction and
2 control over ~~proprietary~~ **CAREER** schools and solicitors for
3 ~~proprietary~~ **CAREER** schools consistent with this act and ~~Act No. 40~~
4 ~~of the Public Acts of 1963, being sections 395.121 to 395.125 of~~
5 ~~the Michigan Compiled Laws 1963 PA 40, MCL 395.121 TO 395.125.~~

6 Sec. 2b. A ~~proprietary~~ **CAREER** school shall provide the ~~board~~
7 **DEPARTMENT** with evidence of surety conditioned to provide
8 indemnification to a student suffering loss because of inability to
9 complete an approved course or program of study due to the closing
10 of the ~~proprietary~~ **CAREER** school. ~~A~~ **THE** surety may consist of a
11 bond, the amount of which shall be determined according to rules
12 promulgated by the ~~board~~ **DEPARTMENT**. Surety shall expire on June 30
13 following the date of issuance and **THE CAREER SCHOOL MUST SUBMIT**
14 proof of renewal ~~shall be submitted to the board prior to~~
15 **DEPARTMENT BEFORE** the date of expiration. ~~Failure~~ **ANY FAILURE** to
16 submit evidence of surety ~~shall invalidate~~ **INVALIDATES** a license to
17 operate **AS** a ~~proprietary~~ **CAREER** school. This section does not apply
18 to a ~~proprietary~~ **CAREER** school with **THAT HAS** a license issued by
19 ~~the board prior to~~ **UNDER THIS ACT BEFORE** November 2, 1967.

20 **SEC. 2C. A CAREER SCHOOL LICENSED UNDER THIS ACT SHALL PUBLISH**
21 **A GRIEVANCE PROCEDURE FOR STUDENTS THAT INCLUDES A RIGHT TO FILE A**
22 **COMPLAINT WITH THE DEPARTMENT FOR ANY VIOLATION OF THIS ACT OR**
23 **RULES.**

24 **SEC. 2D. (1) A CAREER SCHOOL MAY SELL GOODS PRODUCED OR**
25 **SERVICES PROVIDED BY A STUDENT ENROLLED IN AN EDUCATIONAL PROGRAM**
26 **OPERATED BY THE SCHOOL IF ALL OF THE FOLLOWING ARE MET:**

27 **(A) THE PROGRAM INCLUDES CLASSROOM STUDY AND PRACTICAL**

1 TRAINING.

2 (B) ANY PRACTICAL TRAINING INCLUDED IN THE PROGRAM IS
3 SUPERVISED BY A MEMBER OF THE FACULTY.

4 (C) IT IS AN INTEGRAL PART OF THE PROGRAM THAT THE STUDENT
5 ENGAGE IN PRODUCING THE GOODS OR PROVIDING THE SERVICES AS PART OF
6 HIS OR HER PRACTICAL TRAINING.

7 (D) INCOME FROM THE SALE OF GOODS PRODUCED AND SERVICES
8 PROVIDED BY STUDENTS IN THE PROGRAM DOES NOT EXCEED 15% OF THE
9 PROGRAM'S TOTAL ANNUAL INCOME.

10 (E) MONEY FROM THE SALE OF THE GOODS OR SERVICES IS USED
11 SOLELY TO SUPPORT THE SCHOOL AND DOES NOT INVOLVE PECUNIARY GAIN OR
12 PROFIT OR ANY OTHER ADVANTAGE OR COMPENSATION FOR ITS OFFICERS,
13 DIRECTORS, SHAREHOLDERS, MEMBERS, OR FACULTY.

14 (F) THE SCHOOL DOES NOT CHARGE A STUDENT A MONETARY PENALTY OR
15 INCREASE HIS OR HER PROGRAM HOURS BEYOND THE NUMBER APPROVED BY THE
16 DEPARTMENT IF HE OR SHE DOES NOT ATTEND ANY PRACTICAL TRAINING.

17 (G) A STUDENT ENGAGED IN PRODUCING GOODS OR PROVIDING SERVICES
18 AS PART OF HIS OR HER PRACTICAL TRAINING DOES NOT DISPLACE A
19 REGULAR EMPLOYEE.

20 (H) A STUDENT ENROLLED IN THE PROGRAM IS NOT RESPONSIBLE FOR
21 RECRUITING PURCHASERS OF THE GOODS OR SERVICES.

22 (I) THE SCHOOL PROVIDES A WRITTEN NOTICE TO ANY STUDENT
23 APPLYING TO PARTICIPATE IN THE PROGRAM AND ANY PROSPECTIVE
24 PURCHASERS OF GOODS AND SERVICES THAT DISCLOSES THAT THE GOODS AND
25 SERVICES ARE PROVIDED BY STUDENTS.

26 (J) THE SCHOOL HAS OBTAINED THE APPROVAL OF THE DEPARTMENT
27 DESCRIBED IN THIS SECTION.

1 (2) A CAREER SCHOOL SHALL NOT OPERATE AN EDUCATIONAL PROGRAM
2 DESCRIBED IN SUBSECTION (1), OR SELL GOODS PRODUCED OR SERVICES
3 PROVIDED BY A STUDENT ENROLLED IN THAT PROGRAM, WITHOUT THE WRITTEN
4 APPROVAL OF THE DEPARTMENT.

5 (3) AN APPROVAL OR RENEWAL OF AN APPROVAL UNDER THIS SECTION
6 IS VALID FOR 1 YEAR.

7 (4) THE DEPARTMENT MAY RENEW AN APPROVAL DESCRIBED IN THIS
8 SECTION IF THE CAREER SCHOOL CONTINUES TO COMPLY WITH THIS SECTION
9 AND ANY RULES PROMULGATED UNDER THIS SECTION. A CAREER SCHOOL
10 REQUESTING RENEWAL OF AN APPROVAL SHALL SUBMIT AN APPLICATION FOR
11 RENEWAL TO THE DEPARTMENT, IN THE FORM PRESCRIBED BY THE
12 DEPARTMENT, AND INCLUDE WITH THE APPLICATION ANY FINANCIAL
13 INFORMATION REQUESTED BY THE DEPARTMENT THAT DEMONSTRATES THE
14 CAREER SCHOOL'S COMPLIANCE WITH SUBSECTION (1) IN THE PRECEDING
15 YEAR.

16 (5) THE DEPARTMENT SHALL REVOKE AN APPROVAL GRANTED UNDER THIS
17 SECTION IF THE CAREER SCHOOL'S LICENSE UNDER THIS ACT IS REVOKED.
18 THE DEPARTMENT MAY REVOKE AN APPROVAL GRANTED UNDER THIS SECTION AT
19 ANY TIME IF THE DEPARTMENT DETERMINES THAT THE CAREER SCHOOL TO
20 WHICH THE APPROVAL IS GRANTED IS NOT COMPLYING WITH THIS SECTION OR
21 ANY RULES PROMULGATED UNDER THIS SECTION.

22 (6) ANY FINANCIAL INFORMATION PROVIDED TO THE DEPARTMENT BY A
23 CAREER SCHOOL UNDER THIS SECTION IS CONFIDENTIAL AND IS NOT SUBJECT
24 TO THE DISCLOSURE REQUIREMENTS OF THE FREEDOM OF INFORMATION ACT,
25 1976 PA 442, MCL 15.231 TO 15.246, EXCEPT THAT DISCLOSURE OF
26 FINANCIAL INFORMATION MAY BE MADE IN ANY OF THE FOLLOWING
27 CIRCUMSTANCES:

1 (A) WITH THE WRITTEN CONSENT OF THE SCHOOL.

2 (B) PURSUANT TO A COURT PROCEEDING.

3 (C) THE DISCLOSURE IS MADE TO AN AGENT OR EMPLOYEE OF THE
4 DEPARTMENT.

5 (D) THE DISCLOSURE IS MADE TO AN AGENT OR EMPLOYEE OF A STATE
6 OR THE FEDERAL GOVERNMENT AUTHORIZED BY LAW TO SEE OR REVIEW THE
7 INFORMATION.

8 Sec. 3. (1) IN LIEU OF REVOCATION UNDER SECTION 1(3), THE
9 DEPARTMENT MAY ASSESS AN ADMINISTRATIVE FINE AGAINST A CAREER
10 SCHOOL OF NOT MORE THAN \$1,000.00 FOR A VIOLATION OF THIS ACT OR
11 RULES PROMULGATED UNDER THIS ACT. HOWEVER, THE DEPARTMENT MAY NOT
12 ASSESS ADMINISTRATIVE FINES UNDER THIS SUBSECTION AGAINST A CAREER
13 SCHOOL THAT IN THE AGGREGATE ARE MORE THAN \$10,000.00 FOR MULTIPLE
14 VIOLATIONS OF THIS ACT OR RULES PROMULGATED UNDER THIS ACT THAT
15 ARISE FROM THE SAME TRANSACTION.

16 (2) A ~~person who~~ CAREER SCHOOL THAT violates this act ~~shall be~~
17 AND HAS ITS LICENSE REVOKED, OR THAT OPERATES IN THIS STATE WITHOUT
18 A LICENSE, IS guilty of a misdemeanor ~~—~~ punishable by a fine ~~not to~~
19 ~~exceed \$1,000.00~~ OF NOT MORE THAN \$50,000.00, or imprisonment for a
20 ~~period not to exceed 90 days~~ NOT MORE THAN 1 YEAR, or both.