

Legislative Analysis



PROPRIETARY SCHOOLS: ALLOW TO CHARGE FOR SERVICES PERFORMED BY STUDENTS

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House Bill 4536

Sponsor: Rep. Gary McDowell

Committee: Regulatory Reform

Complete to 6-3-09

A SUMMARY OF HOUSE BILL 4536 AS INTRODUCED 3-10-09

The bill would prohibit an unlicensed proprietary school from operating in the state, allow a proprietary school to charge a nominal fee for goods produced or services provided by students under certain conditions, and revise penalties for violations of the act or rules.

A proprietary school is defined as "a school that uses a certain plan or method to teach a trade, occupation, or vocation for a consideration, reward, or promise of whatever nature." The term includes a private business, trade, or home study school, but does not include a degree-granting institution.

House Bill 4536 would amend Public Act 148 of 1943 (MCL 395.101 et seq.), which regulates proprietary schools, to rename it the "Proprietary Schools Act." The bill would also prohibit a person from operating a proprietary school within the state without a license or temporary permit from the Department of Energy, Labor, and Economic Growth. The department would have to prescribe the form of license and temporary permit. A limited liability company (LLC) would be added to the current definition of "person" contained in the act; therefore, the act would apply also to a proprietary school owned by an LLC. In addition, a proprietary school licensed under the act would have to adopt and publish a written policy that allowed students to file a complaint with the department for any violation of the act or departmental rules.

Further, the bill would make numerous changes of a technical nature (e.g., replacing references to the Board of Education with references to the Department of Energy, Labor and Economic Growth, to reflect the shift of regulatory duties made several years ago by Executive Order).

Goods and services by students. Currently, the act prohibits the department from granting a temporary permit or a license to operate a proprietary school as part of, or in conjunction with, another business or commercial enterprise that utilizes or sells goods or services provided by students.

The bill would create an exception that would allow a proprietary school to sell goods produced or services provided by an enrolled student, and it would prohibit the department from refusing to grant a temporary permit or license, if all of the following criteria were met:

- The program included classroom study and practical training.

- Any practical training included faculty supervision.
- Engaging in producing the goods or providing the services as part of the student's training is an integral part of the program.
- Any customer who purchased goods produced or services provided by a student in the program is provided written notification that the individual producing the good or providing the services was a student of the school.
- The customer is charged the actual and reasonable costs of providing the goods and services and could be charged only an additional nominal amount for the purchase of the goods produced or services provided by a student in the program.
- Money from the sale of the goods or services is used solely to support the school.
- The school did not charge a student a monetary penalty or increase program hours beyond the number approved by the department for failing to attend any practical training, or require a student to recruit purchasers of the goods and services, unless that obligation is clearly disclosed to the student in writing before enrollment in the program.

Penalties. Currently, a person who violates the act is guilty of a misdemeanor punishable by a maximum fine of \$1,000 or imprisonment for not more than 90 days, or both.

Instead, the bill would specify that in lieu of license revocation for noncompliance with any laws or departmental rulings, the department could assess an administrative fine of up to \$1,000 against a school for a violation of the act or departmental rules; the department could not assess fines that in the aggregate were more than \$5,000 for multiple violations of the act or departmental rules arising from the same transaction.

A school that violated the act and had its license revoked, or that operated in the state without a license, would be guilty of a misdemeanor punishable by a maximum term of imprisonment of one year and/or a maximum fine of \$10,000.

FISCAL IMPACT:

The bill would have no significant fiscal impact on the state or local governmental units, although the bill could potentially increase the workload of the DELEG, Office of Post Secondary Services to the extent that practical experiences are incorporated into the requirements of a course of study and such requirements are considered to be a change in a program or a new course, which require DELEG-OPS approval.

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