

SUBSTITUTE FOR
HOUSE BILL NO. 4536

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

7 (2) A license issued under this act ~~shall be~~ TO A PROPRIETARY

1 SCHOOL THAT IS ACCREDITED BY A NATIONAL OR REGIONAL ACCREDITING
2 AGENCY RECOGNIZED BY THE UNITED STATES SECRETARY OF EDUCATION IS
3 VALID FOR 3 YEARS. A LICENSE ISSUED UNDER THIS ACT TO ANY OTHER
4 PROPRIETARY SCHOOL IS NOT valid for ~~not~~ more than 1 year. If the
5 ~~applicant~~ A PROPRIETARY SCHOOL THAT IS ISSUED EITHER A 1-YEAR
6 LICENSE OR A 3-YEAR LICENSE SHALL PAY AN ANNUAL LICENSE FEE SET BY
7 THE DEPARTMENT UNDER SECTION 2A(2). THE DEPARTMENT MAY RENEW THE
8 LICENSE OF A PERSON THAT continues to comply with this act and the
9 rules promulgated under this act. ~~, the license may be renewed.~~

10 (3) ~~The license may be revoked~~ DEPARTMENT MAY REVOKE A LICENSE
11 GRANTED UNDER THIS ACT at any time if, in the judgment of the ~~board~~
12 DEPARTMENT, the person to ~~whom~~ WHICH the license is issued is not
13 complying with ~~provisions of the~~ ANY APPLICABLE law or the rulings
14 of the ~~board~~ DEPARTMENT.

15 (4) ~~A person shall not be granted~~ EXCEPT AS PROVIDED IN
16 SUBSECTION (5), THE DEPARTMENT SHALL NOT GRANT a temporary permit
17 or a license to operate a proprietary school as part of, or in
18 conjunction with, another business or commercial enterprise ~~which~~
19 THAT utilizes or sells goods or services produced by students.

20 (5) A PROPRIETARY SCHOOL MAY SELL GOODS PRODUCED OR SERVICES
21 PROVIDED BY A STUDENT ENROLLED IN AN EDUCATIONAL PROGRAM OPERATED
22 BY A PROPRIETARY SCHOOL, AND THE DEPARTMENT MAY NOT REFUSE TO GRANT
23 A TEMPORARY PERMIT OR LICENSE TO A PROPRIETARY SCHOOL IF ALL OF THE
24 FOLLOWING ARE MET:

25 (A) THE PROGRAM INCLUDES CLASSROOM STUDY AND PRACTICAL
26 TRAINING.

27 (B) ANY PRACTICAL TRAINING INCLUDED IN THE PROGRAM IS

1 SUPERVISED BY A MEMBER OF THE FACULTY.

2 (C) IT IS AN INTEGRAL PART OF THE PROGRAM THAT THE STUDENT
3 ENGAGE IN PRODUCING THE GOODS OR PROVIDING THE SERVICES AS PART OF
4 HIS OR HER PRACTICAL TRAINING. THE SCHOOL SHALL CLEARLY DISCLOSE TO
5 THE STUDENT IN WRITING BEFORE HE OR SHE ENROLLS IN THE PROGRAM THAT
6 THE SCHOOL INTENDS TO SELL ANY GOODS OR SERVICES PRODUCED BY THE
7 STUDENT AS PART OF HIS OR HER PRACTICAL TRAINING. THE SCHOOL SHALL
8 INCLUDE THIS DISCLOSURE IN A SIGNED ENROLLMENT AGREEMENT BETWEEN
9 THE SCHOOL AND THE STUDENT.

10 (D) ANY CUSTOMER PURCHASING GOODS PRODUCED OR SERVICES
11 PROVIDED BY A STUDENT IN THE PROGRAM IS PROVIDED WRITTEN
12 NOTIFICATION THAT THE INDIVIDUAL PRODUCING THE GOODS OR PROVIDING
13 THE SERVICES IS A STUDENT OF THE SCHOOL.

14 (E) THE CUSTOMER IS CHARGED THE REASONABLE COSTS OF PROVIDING
15 THE GOODS AND SERVICES.

16 (F) MONEY FROM THE SALE OF THE GOODS OR SERVICES IS USED
17 SOLELY TO SUPPORT THE SCHOOL.

18 (G) THE SCHOOL DOES NOT CHARGE A STUDENT A MONETARY PENALTY OR
19 INCREASE HIS OR HER PROGRAM HOURS BEYOND THE NUMBER APPROVED BY THE
20 DEPARTMENT IF HE OR SHE DOES NOT ATTEND ANY PRACTICAL TRAINING, OR
21 REQUIRE A STUDENT TO RECRUIT PURCHASERS OF THE GOODS AND SERVICES,
22 UNLESS THAT OBLIGATION IS CLEARLY DISCLOSED TO THE STUDENT IN
23 WRITING BEFORE HE OR SHE ENROLLS IN THE PROGRAM.

24 Sec. 1a. (1) THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE
25 "PROPRIETARY SCHOOLS ACT".

26 (2) As used in this act:

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

1 **MEANS THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH.**

2 (b) "Person" means an individual, partnership, corporation,
3 **LIMITED LIABILITY COMPANY**, association, organization, or other
4 legal entity.

5 (c) "Proprietary school" means a school that uses a certain
6 plan or method to teach a trade, occupation, or vocation for a
7 consideration, reward, or promise of ~~whatever nature~~ **ANY KIND**.
8 Proprietary school includes, but is not limited to, a private
9 business, trade, or home study school. Proprietary school does not
10 include **ANY OF** the following:

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

12 (ii) A school licensed by law through another board **OR**
13 **DEPARTMENT** of this state.

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

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

24 (2) ~~A~~ **THE DEPARTMENT MAY GRANT A** temporary permit to operate a
25 proprietary school ~~may be granted on the basis of~~ **BASED ON** a
26 written proposal submitted in the manner and form prescribed by the
27 ~~board~~ **DEPARTMENT**. The proposal shall include plans for facilities,

1 instructional procedures, personnel, business standards, and
2 operating and instructional practices ~~which~~ **THAT** comply with this
3 act and with rules promulgated under this act. A temporary permit
4 issued under this act ~~shall be~~ **IS NOT** valid for ~~not~~ more than 1
5 year. ~~If the applicant~~ **THE DEPARTMENT MAY RENEW THE TEMPORARY**
6 **PERMIT OF A PERSON THAT** continues to comply with this act and the
7 rules promulgated under this act. ~~, a temporary permit may be~~
8 ~~renewed.~~

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

20 (2) The ~~board~~ **DEPARTMENT** shall set and collect fees for
21 licenses, temporary permits, and renewals issued under this act.
22 The fees shall be used solely for administrative expenses incurred
23 under this act.

24 (3) The ~~board~~ **DEPARTMENT** shall exercise jurisdiction and
25 control over proprietary schools and solicitors for proprietary
26 schools consistent with this act and ~~Act No. 40 of the Public Acts~~
27 ~~of 1963, being sections 395.121 to 395.125 of the Michigan Compiled~~

~~Laws 1963 PA 40, MCL 395.121 TO 395.125.~~

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

**SEC. 2C. A PROPRIETARY SCHOOL LICENSED UNDER THIS ACT SHALL
ADOPT AND PUBLISH A WRITTEN POLICY THAT ALLOWS STUDENTS TO FILE A
COMPLAINT WITH THE DEPARTMENT FOR ANY VIOLATION OF THIS ACT OR
RULES PROMULGATED UNDER THIS ACT.**

Sec. 3. (1) **IN LIEU OF REVOCATION UNDER SECTION 1(3), THE
DEPARTMENT MAY ASSESS AN ADMINISTRATIVE FINE AGAINST A PROPRIETARY
SCHOOL OF NOT MORE THAN \$1,000.00 FOR A VIOLATION OF THIS ACT OR
RULES PROMULGATED UNDER THIS ACT. HOWEVER, THE DEPARTMENT MAY NOT
ASSESS ADMINISTRATIVE FINES UNDER THIS SUBSECTION AGAINST A
PROPRIETARY SCHOOL THAT IN THE AGGREGATE ARE MORE THAN \$5,000.00
FOR MULTIPLE VIOLATIONS OF THIS ACT OR RULES PROMULGATED UNDER THIS
ACT THAT ARISE FROM THE SAME TRANSACTION.**

1 (2) A ~~person who~~ PROPRIETARY SCHOOL THAT violates this act
2 ~~shall be~~ AND HAS ITS LICENSE REVOKED, OR THAT OPERATES IN THIS
3 STATE WITHOUT A LICENSE, IS guilty of a misdemeanor ~~, punishable by~~
4 a fine ~~not to exceed \$1,000.00~~ OF NOT MORE THAN \$10,000.00, or
5 imprisonment for a ~~period not to exceed 90 days~~ NOT MORE THAN 1
6 YEAR, or both.