

# HOUSE BILL No. 4536

March 10, 2009, Introduced by Reps. McDowell, Lahti, Lindberg, Nerat, Sheltrown and Mayes and referred to the Committee on Regulatory Reform.

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.

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

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

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

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

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

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

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

(D) **ANY CUSTOMER PURCHASING GOODS PRODUCED OR SERVICES**

1 PROVIDED BY A STUDENT IN THE PROGRAM IS PROVIDED WRITTEN  
2 NOTIFICATION THAT THE INDIVIDUAL PRODUCING THE GOODS OR PROVIDING  
3 THE SERVICES IS A STUDENT OF THE SCHOOL.

4 (E) THE CUSTOMER IS CHARGED THE ACTUAL AND REASONABLE COSTS OF  
5 PROVIDING THE GOODS AND SERVICES AND MAY BE CHARGED ONLY AN  
6 ADDITIONAL NOMINAL AMOUNT FOR THE PURCHASE OF THE GOODS PRODUCED OR  
7 SERVICES PROVIDED BY A STUDENT IN THE PROGRAM.

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

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

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

18 (2) As used in this act:

19 (a) ~~"Board" means the state board of education.~~ "DEPARTMENT"  
20 MEANS THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH.

21 (b) "Person" means an individual, partnership, corporation,  
22 LIMITED LIABILITY COMPANY, association, organization, or other  
23 legal entity.

24 (c) "Proprietary school" means a school that uses a certain  
25 plan or method to teach a trade, occupation, or vocation for a  
26 consideration, reward, or promise of ~~whatever nature~~ ANY KIND.  
27 Proprietary school includes, but is not limited to, a private

business, trade, or home study school. Proprietary school does not include **ANY OF** the following:

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

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

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

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

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

1       Sec. 2a. (1) The ~~board~~**DEPARTMENT** shall provide for adequate  
2 inspection of all proprietary schools. The ~~board~~**DEPARTMENT** shall  
3 promulgate rules ~~pursuant to~~**UNDER** the administrative procedures  
4 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~  
5 ~~24.201 to 24.315 of the Michigan Compiled Laws 1969 PA 306, MCL~~  
6 **24.201 TO 24.328**, and employ the personnel necessary to ~~carry out~~  
7 **ADMINISTER** this act. A proprietary school shall submit reports  
8 required by the ~~board~~**DEPARTMENT** and shall make available to  
9 authorized representatives of the ~~board~~**DEPARTMENT** all records  
10 pertaining to the instructional program of the school or to any  
11 individual student or enrollee.

12       (2) The ~~board~~**DEPARTMENT** shall set and collect fees for  
13 licenses, temporary permits, and renewals issued under this act.  
14 The fees shall be used solely for administrative expenses incurred  
15 under this act.

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

21       Sec. 2b. A proprietary school shall provide the ~~board~~  
22 **DEPARTMENT** with evidence of surety conditioned to provide  
23 indemnification to a student suffering loss because of inability to  
24 complete an approved course or program of study due to the closing  
25 of the proprietary school. ~~A~~**THE** surety may consist of a bond, the  
26 amount of which shall be determined according to rules promulgated  
27 by the ~~board~~**DEPARTMENT**. Surety shall expire on June 30 following

1 the date of issuance and **THE PROPRIETARY SCHOOL MUST SUBMIT** proof  
 2 of renewal ~~shall be submitted to the board prior to DEPARTMENT~~  
 3 **BEFORE** the date of expiration. Failure ~~ANY FAILURE~~ to submit  
 4 evidence of surety ~~shall invalidate~~ **INVALIDATES** a license to  
 5 operate a proprietary school. This section does not apply to a  
 6 proprietary school with a license issued ~~by the board prior to~~  
 7 **UNDER THIS ACT BEFORE** November 2, 1967.

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

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

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