

1768

2009-2010 Regular Sessions

I N S E N A T E

February 6, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to the university of the state of New York; and to repeal section 224 of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known as the "integrity of higher educa-
2 tion degrees, and education consumer protection act of 2009".
3 S 2. Section 224 of the education law is REPEALED and a new section
4 224 is added to read as follows:
5 S 224. PROHIBITIONS. 1. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION:
6 (A) "AUTHORIZED INSTITUTION" MEANS
7 (I) ANY INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER
8 ENTITY WHICH HOLDS COLLEGE, UNIVERSITY, OR OTHER DEGREE GRANTING POWER
9 BY SPECIAL CHARTER FROM THE LEGISLATURE OF THIS STATE, OR THE REGENTS,
10 OR
11 (II) ANY INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER
12 ENTITY WHICH IS LOCATED WITHOUT THE STATE, MAINTAINS NO PRESENCE WITHIN
13 THIS STATE, AS DETERMINED BY THE DEPARTMENT, AND IS ACCREDITED BY AT
14 LEAST ONE ACCREDITING COMMISSION RECOGNIZED BY THE UNITED STATES DEPART-
15 MENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDI-
16 TATION AT THE POST SECONDARY LEVEL, OR
17 (III) ANY INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER
18 ENTITY WHICH IS LOCATED WITHOUT THE UNITED STATES AND, AT THE DETERMI-
19 NATION OF THE DEPARTMENT MEETS THE MINIMAL STANDARDS OF AN ACCREDITING
20 COMMISSION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS A
21 RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDITATION AT THE POST SECOND-
22 ARY LEVEL.
23 (B) "AUTHORIZED PROGRAM" MEANS ANY SERIES OF ACADEMIC COURSES, OR ANY
24 ACADEMIC PROGRAM WHICH LEADS TO A DEGREE WHEN SUCH PROGRAM IS:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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(I) APPROVED BY THE DEPARTMENT OR THE REGENTS FOR SUCH PURPOSE, OR
(II) OFFERED BY OR THROUGH AN INSTITUTION LOCATED WITHOUT THE STATE,
AND MAINTAINS NO PRESENCE WITHIN THE STATE, AS DETERMINED BY THE DEPARTMENT, AND IS CONDUCTED AND COMPLETED WHOLLY WITHOUT THE STATE, AND THE PROGRAM IS ACCREDITED BY AT LEAST ONE ACCREDITING COMMISSION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDITATION AT THE POST SECONDARY LEVEL, OR

(III) OFFERED BY AN INSTITUTION LOCATED WITHOUT THE UNITED STATES AND THE PROGRAM, AT THE DETERMINATION OF THE DEPARTMENT MEETS THE MINIMAL STANDARDS OF AN ACCREDITING COMMISSION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDITATION AT THE POST SECONDARY LEVEL.

(C) "AUTHORIZED DEGREE" MEANS AN ACADEMIC DEGREE WHICH IS:

(I) ISSUED OR CONFERRED BY AN AUTHORIZED INSTITUTION, OR

(II) ISSUED OR CONFERRED UPON COMPLETION OF, AND IN RECOGNITION OF SUCH COMPLETION, AN AUTHORIZED PROGRAM, OR

(III) AUTHORIZED BY THE DEPARTMENT UPON A DETERMINATION THAT THE INSTITUTION WHICH CONFERRED THE DEGREE, OR THE PROGRAM WHICH LEAD TO THE DEGREE MEETS THE ACADEMIC STANDARDS OF THIS STATE, OR OF AN ACCREDITING COMMISSION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDITATION AT THE POST SECONDARY LEVEL.

2. NO INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER ENTITY SHALL, IN THIS STATE, CONFER ANY DEGREE OR USE, ADVERTISE, OR TRANSACT BUSINESS UNDER THE NAMED UNIVERSITY OR COLLEGE, OR USING ANY OTHER TITLE OR DESCRIPTIVE MATERIAL INDICATING OR TENDING TO INDICATE THAT SUCH INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER ENTITY CONDUCTS, CARRIES ON, OR IS A SCHOOL OF LAW, MEDICINE, DENTISTRY, PHARMACY, VETERINARY MEDICINE, NURSING, OPTOMETRY, PODIATRY, ARCHITECTURE, ENGINEERING, EDUCATION, PSYCHOLOGY, OR CHIROPRACTIC UNLESS IT IS AN AUTHORIZED INSTITUTION, OR ALL PROGRAMS OFFERED OR ADVERTISED IN THIS STATE ARE AUTHORIZED PROGRAMS. THE FIRST VIOLATION OF THIS SUBDIVISION IS A MISDEMEANOR, ANY SUBSEQUENT VIOLATION IS A FELONY.

3. NO INSTITUTION SHALL ADVERTISE ANY DEGREE OR ACADEMIC PROGRAM LEADING TO A DEGREE IN THIS STATE, OR SOLICIT STUDENTS IN THIS STATE UNLESS IT IS AN AUTHORIZED INSTITUTION OR ALL PROGRAMS OFFERED ARE AUTHORIZED PROGRAMS. THE FIRST VIOLATION OF THIS SUBDIVISION IS A MISDEMEANOR, ANY SUBSEQUENT VIOLATION IS A FELONY. PROVIDED HOWEVER, ANY NEWSPAPER OR OTHER ADVERTISING MEDIUM WHICH CARRIES SUCH ADVERTISEMENTS SHALL BE EXEMPT FROM THIS SUBDIVISION.

4. NO PERSON WITH INTENT TO DECEIVE, SHALL REPRESENT HIMSELF OR HERSELF TO HAVE RECEIVED ANY DEGREE UNLESS HE OR SHE HAS RECEIVED AN AUTHORIZED DEGREE. NEITHER SHALL ANY PERSON APPEND TO HIS OR HER NAME ANY LETTERS IN THE SAME FORM REGISTERED TO THE REGENTS AS ENTITLED TO THE PROTECTION ACCORDED TO UNIVERSITY DEGREES UNLESS HE OR SHE SHALL HAVE RECEIVED AN AUTHORIZED DEGREE. THE FIRST VIOLATION OF THIS SUBDIVISION IS A MISDEMEANOR, ANY SUBSEQUENT VIOLATION IS A FELONY.

5. IT SHALL BE A DEFENSE TO ANY CHARGE BROUGHT UNDER SUBDIVISION FOUR OF THIS SECTION THAT THE PERSON REPRESENTING HIMSELF OR HERSELF TO HOLD SUCH DEGREE DID SO BASED ON A GOOD FAITH BELIEF THAT HIS OR HER DEGREE WAS AN AUTHORIZED DEGREE, WAS CONFERRED BY AN AUTHORIZED INSTITUTION OR UPON COMPLETION OF AN AUTHORIZED PROGRAM.

6. NO PERSON, ASSOCIATION, PARTNERSHIP, CORPORATION, OR ENTITY GOVERNMENTAL OR PRIVATE, SHALL BE REQUIRED TO ACCEPT A DEGREE FOR ANY PURPOSE, EXCEPTING THAT SUCH DEGREE BE AN AUTHORIZED DEGREE.

1 7. COUNTERFEITING OR FALSELY MAKING OR WITHOUT AUTHORITY MAKING OR
2 ALTERING IN ANY MATERIAL RESPECT ANY DIPLOMA OR CERTIFICATE, OR ANY
3 RECORD OF POST SECONDARY ACADEMIC PERFORMANCE OR ACADEMIC TRANSCRIPT,
4 ISSUED UNDER SEAL SHALL BE A FELONY.

5 8. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO, THREE, FOUR OR
6 SIX OF THIS SECTION, THE DEPARTMENT, BOARDS OF EDUCATION, SCHOOL AUTHOR-
7 ITIES, OR AUTHORIZED SCHOOLS SHALL NOT BE REQUIRED TO ACCEPT FOR
8 PURPOSES OF CERTIFICATION, RECERTIFICATION, LICENSURE, APPOINTMENT,
9 PROMOTIONAL INCREMENT, OR SALARY DIFFERENTIAL FOR PEDAGOGIC PERSONNEL,
10 ANY DIPLOMA, DEGREE OR COURSE CREDIT FROM A UNIVERSITY, COLLEGE, ACADE-
11 MY, SCHOOL OR OTHER INSTITUTION OF LEARNING LOCATED OUTSIDE OF THE STATE
12 OF NEW YORK IF SUCH DIPLOMA, DEGREE, OR COURSE CREDIT WAS GRANTED WITH-
13 OUT THE REQUIREMENT OF ON-CAMPUS ATTENDANCE AND IF SUCH INSTRUCTION AND
14 TESTING WAS TRANSACTED PRIMARILY BY CORRESPONDENCE. ANY PERSON MAKING
15 APPLICATION FOR CERTIFICATION, RECERTIFICATION, LICENSURE, APPOINTMENT,
16 PROMOTIONAL INCREMENT OR SALARY DIFFERENTIAL MAY BE REQUIRED BY THE
17 COMMISSIONER, OR BY BOARDS OF EDUCATION, SCHOOL AUTHORITIES, OR AUTHOR-
18 IZED SCHOOL OFFICERS TO SUBMIT A SIGNED STATEMENT OR AFFIDAVIT AS PART
19 OF SUCH APPLICATION TO IDENTIFY ANY DIPLOMA, DEGREE OR COURSE CREDIT
20 WHICH WAS GRANTED BY A UNIVERSITY, COLLEGE, ACADEMY, SCHOOL OR OTHER
21 INSTITUTION OF LEARNING LOCATED OUTSIDE OF THE STATE IF SUCH DIPLOMA,
22 DEGREE, OR COURSE CREDIT WAS GRANTED WITHOUT THE REQUIREMENT OF ON-CAM-
23 PUS ATTENDANCE AND IF SUCH INSTRUCTION AND TESTING WAS TRANSACTED PRIMA-
24 RILY BY CORRESPONDENCE. A WILLFUL AND WRONGFUL MISREPRESENTATION ON SUCH
25 APPLICATION SHALL CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION IN ACCORD-
26 ANCE WITH THE PROVISIONS OF THIS CHAPTER, THE RULES OF THE REGENTS, THE
27 REGULATIONS OF THE COMMISSIONER, OR THE BY-LAWS, RULES OR REGULATIONS OF
28 SUCH SCHOOL AUTHORITIES. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT
29 APPLY TO ANY DIPLOMA, DEGREE OR COURSE CREDIT EARNED BEFORE SEPTEMBER
30 FIRST, NINETEEN HUNDRED EIGHTY-SEVEN.

31 9. THE REGENTS SHALL PROMULGATE ANY NECESSARY REGULATIONS FOR THE
32 PURPOSE OF CARRYING OUT THE PROVISIONS OF THIS SECTION.

33 S 3. The education law is amended by adding a new section 115 to read
34 as follows:

35 S 115. AUTHORIZED INSTITUTIONS AND DEGREES. THE DEPARTMENT SHALL:

36 1. MAINTAIN A LIST, AVAILABLE TO THE PUBLIC, OF ALL AUTHORIZED INSTI-
37 TUTIONS AND PROGRAMS AS PROVIDED FOR IN SECTION TWO HUNDRED TWENTY-FOUR
38 OF THIS TITLE, PROVIDED HOWEVER, THAT THE DEPARTMENT MAY ELECT TO LIST
39 ONLY THOSE INSTITUTIONS AND PROGRAMS WHICH ARE AUTHORIZED BUT NOT
40 ACCREDITED BY AT LEAST ONE ACCREDITING COMMISSION RECOGNIZED BY THE
41 UNITED STATES DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE
42 PURPOSE OF ACCREDITATION AT THE POST SECONDARY LEVEL. SUCH LIST SHALL BE
43 MADE AVAILABLE AT ALL TIMES TO THE PUBLIC ON THE INTERNET.

44 2. FOR ALL COLLEGES, UNIVERSITIES, INSTITUTIONS, INDIVIDUALS, ASSOCI-
45 ATIONS, PARTNERSHIPS, OR OTHER ENTITIES WHICH ARE FOUND TO BE LOCATED IN
46 THIS STATE, SOLICITING STUDENTS IN THIS STATE, OR ADVERTISING DEGREES OR
47 POST SECONDARY ACADEMIC PROGRAMS IN THIS STATE THE DEPARTMENT SHALL MAKE
48 A DETERMINATION AS TO WHETHER THE COLLEGE, UNIVERSITY, INSTITUTION,
49 INDIVIDUAL, ASSOCIATION, PARTNERSHIP, OR OTHER ENTITY IS AN AUTHORIZED
50 INSTITUTION.

51 3. MAINTAIN A LIST, AVAILABLE TO THE PUBLIC, OF ALL KNOWN INSTITUTIONS
52 THAT ARE OR HAVE BEEN LOCATED IN THIS STATE, SOLICITING STUDENTS IN THIS
53 STATE, OR ADVERTISING DEGREES OR POST SECONDARY ACADEMIC PROGRAMS IN
54 THIS STATE AND ARE NOT AUTHORIZED IN ACCORDANCE WITH SECTION TWO HUNDRED
55 TWENTY-FOUR OF THIS TITLE. THIS LIST SHALL BE MADE AVAILABLE TO THE
56 PUBLIC AT ALL TIMES ON THE INTERNET.

1 4. MAINTAIN A LIST, AVAILABLE TO THE PUBLIC OF ALL DEGREES WHICH ARE
2 AUTHORIZED PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR OF THIS TITLE,
3 PROVIDED HOWEVER, THAT FOR COLLEGES LOCATED WITHOUT THE STATE THE
4 DEPARTMENT MAY ELECT TO LIST ONLY THOSE DEGREES CONFERRED BY INSTI-
5 TUTIONS OR UPON COMPLETION OF PROGRAMS WHICH ARE AUTHORIZED BUT NOT
6 ACCREDITED BY AT LEAST ONE ACCREDITING COMMISSION RECOGNIZED BY THE
7 UNITED STATES DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE
8 PURPOSE OF ACCREDITATION AT THE POST SECONDARY LEVEL. THIS LIST SHALL
9 INCLUDE ALL KNOWN INSTITUTIONS AND PROGRAMS WHOSE DEGREES ARE NOT
10 AUTHORIZED PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR OF THIS TITLE.
11 THIS LIST SHALL BE MADE AVAILABLE TO THE PUBLIC AT ALL TIMES ON THE
12 INTERNET.

13 5. PROMULGATE ANY REGULATIONS NECESSARY FOR PURPOSES OF CARRYING OUT
14 THE PROVISIONS OF THIS SECTION.

15 S 4. This act shall take effect immediately.