

4741--B

2015-2016 Regular Sessions

I N S E N A T E

April 15, 2015

Introduced by Sens. GOLDEN, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to private school agent's certificates

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

1 Section 1. Paragraphs a and b of subdivision 1 of section 5001 of the
2 education law, as amended by chapter 381 of the laws of 2012, are
3 amended and a new paragraph c is added to read as follows:
4 a. "licensed private career school" or "licensed private school" shall
5 mean any entity offering to instruct or teach any subject by any plan or
6 method including written, visual or audio-visual methods, and shall
7 include any institution licensed or registered as a registered business
8 school or computer training facility on the effective date of [the]
9 chapter THREE HUNDRED EIGHTY-ONE of the laws of two thousand twelve
10 [which amended this subdivision]. Following such effective date, there
11 shall be no distinction between institutions previously defined as
12 "registered business schools" or "computer training facilities" and
13 other licensed private schools, and any reference in law to a registered
14 business school or computer training facility shall be deemed a refer-
15 ence to a licensed private career school. Institutions holding a valid
16 business school registration on such effective date, including compu-
17 ter-training facilities, shall have such registrations replaced by the
18 commissioner, at no cost, with licenses valid until the expiration date
19 listed on such previous registration; [and]

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

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1 b. "certified English as a second language school" or "certified ESL
2 school" shall mean a language school conducted for-profit which provides
3 instruction in English as a second language and which accepts no public
4 funds and is certified pursuant to paragraph f of subdivision four of
5 this section[.]; AND

6 C. "ONLINE EDUCATION MARKETPLACE" SHALL MEAN A WEBSITE OR OTHER INTER-
7 NET-BASED ONLINE TECHNOLOGY TOOL WITH WHICH A LICENSED PRIVATE CAREER
8 SCHOOL OR CERTIFIED ESL SCHOOL CONTRACTS FOR MARKETING OR ADVERTISING
9 SERVICES, OR SERVICES IN CONNECTION WITH THE COLLECTION OF TUITION
10 AND/OR FEES, TO THE EXTENT AUTHORIZED IN SUBDIVISION THREE OF SECTION
11 FIVE THOUSAND FOUR OF THIS ARTICLE.

12 S 2. Subdivision 3 of section 5004 of the education law, as amended by
13 chapter 19 of the laws of 2013, is amended to read as follows:

14 3. A. Exempted from the requirements of this section are persons
15 acting solely for schools which are not required to be licensed or are
16 specifically exempted from the licensing requirements of this article.

17 B. (I) ALSO EXEMPTED FROM THE REQUIREMENTS OF THIS SECTION IS AN
18 ONLINE EDUCATION MARKETPLACE AS DEFINED IN PARAGRAPH C OF SUBDIVISION
19 ONE OF SECTION FIVE THOUSAND ONE OF THIS ARTICLE, PROVIDED THAT THE
20 ONLINE EDUCATION MARKETPLACE COMPLIES WITH EACH OF THE FOLLOWING:

21 (1) AN ONLINE EDUCATION MARKETPLACE SHALL NOT SOLICIT, PROCURE, OR
22 ENROLL ANY STUDENT FOR INSTRUCTION IN A LICENSED PRIVATE CAREER SCHOOL
23 OR CERTIFIED ESL SCHOOL, AS DEFINED BY THE COMMISSIONER IN REGULATIONS.

24 (2) UPON RECEIPT OF ANY MONIES COLLECTED BY AN ONLINE EDUCATION
25 MARKETPLACE FROM A PROSPECTIVE STUDENT FOR PAYMENT OF TUITION AND/OR
26 FEES, THE PROSPECTIVE STUDENT AND THE LICENSED PRIVATE CAREER SCHOOL OR
27 CERTIFIED ESL SCHOOL SHALL EXECUTE AN ENROLLMENT AGREEMENT IN ACCORDANCE
28 WITH REGULATIONS OF THE COMMISSIONER. IF AN ENROLLMENT AGREEMENT IS NOT
29 EXECUTED, THE MONIES SHALL BE PROMPTLY RETURNED TO THE PROSPECTIVE
30 STUDENT IN A TIMEFRAME AND MANNER PRESCRIBED BY THE COMMISSIONER IN
31 REGULATIONS.

32 (3) IF AN ENROLLMENT AGREEMENT IS EXECUTED, THE ONLINE EDUCATION
33 MARKETPLACE SHALL FORWARD THE MONIES RECEIVED FROM THE PROSPECTIVE
34 STUDENT TO THE LICENSED PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL IN
35 A TIMEFRAME AND MANNER PRESCRIBED BY THE COMMISSIONER IN REGULATIONS.

36 (4) AN ONLINE EDUCATION MARKETPLACE SHALL NOT RECEIVE FROM A STUDENT
37 AN AMOUNT GREATER THAN THE TUITION OR FEES TO BE CHARGED BY THE LICENSED
38 PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL TO THE STUDENT, AND SHALL
39 SEPARATELY ACCOUNT FOR MONIES RECEIVED FROM THE PROSPECTIVE STUDENT TO
40 BE THEREAFTER TRANSFERRED TO A LICENSED PRIVATE CAREER SCHOOL OR CERTI-
41 FIED ESL SCHOOL IN PAYMENT OF TUITION OR FEES, AND ANY REMUNERATION
42 AND/OR COMPENSATION RECEIVED BY THE ONLINE EDUCATION MARKETPLACE FROM A
43 LICENSED PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL IN PAYMENT FOR
44 SERVICES RENDERED TO SUCH SCHOOL BY THE ONLINE EDUCATION MARKETPLACE.
45 THE LICENSED PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL SHALL ALSO
46 SEPARATELY ACCOUNT FOR TUITION OR FEES TRANSFERRED TO THE SCHOOL BY AN
47 ONLINE EDUCATION MARKETPLACE ON BEHALF OF A STUDENT IN PAYMENT OF
48 TUITION OR FEES, AND PAYMENTS MADE BY THE SCHOOL TO AN ONLINE EDUCATION
49 MARKETPLACE FOR SERVICES RENDERED TO THE SCHOOL BY THE ONLINE EDUCATION
50 MARKETPLACE.

51 (5) THE COMMISSIONER MAY TAKE DISCIPLINARY ACTION AGAINST AN ONLINE
52 EDUCATION MARKETPLACE PURSUANT TO SECTION FIVE THOUSAND THREE OF THIS
53 ARTICLE, TO THE EXTENT SUCH PROVISIONS ARE DEEMED APPLICABLE BY THE
54 COMMISSIONER IN REGULATIONS.

1 (6) AN ONLINE EDUCATION MARKETPLACE IS PROHIBITED FROM OFFERING
2 ADVERTISING/MARKETING SERVICES TO AN UNLICENSED PRIVATE CAREER SCHOOL OR
3 UNCERTIFIED ESL SCHOOL.

4 (II) ANY LICENSED PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL THAT
5 CONTRACTS WITH AN ONLINE EDUCATION MARKETPLACE SHALL COMPLY WITH THE
6 PROVISIONS OF THIS SUBDIVISION AND THE REGULATIONS OF THE COMMISSIONER
7 OR THEY MAY BE SUBJECT TO DISCIPLINARY ACTION PURSUANT TO SECTION FIVE
8 THOUSAND THREE OF THIS ARTICLE.

9 C. Persons who are paid to procure, solicit or enroll students on the
10 premises of schools required to be licensed shall not be exempt from the
11 provisions of this section.

12 S 3. This act shall take effect immediately.