S T A T E O F N E W Y O R K

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:

Section 1. Paragraphs a and b of subdivision 1 of section 5001 of the education law, as amended by chapter 381 of the laws of 2012, are amended and a new paragraph c is added to read as follows:

a. "licensed private career school" or "licensed private school" shall mean any entity offering to instruct or teach any subject by any plan or method including written, visual or audio-visual methods, and shall include any institution licensed or registered as a registered business school or computer training facility on the effective date of [the] chapter THREE HUNDRED EIGHTY-ONE of the laws of two thousand twelve [which amended this subdivision]. Following such effective date, there shall be no distinction between institutions previously defined as "registered business schools" or "computer training facilities" and other licensed private schools, and any reference in law to a registered business school or computer training facility shall be deemed a reference to a licensed private career school. Institutions holding a valid business school registration on such effective date, including computer-training facilities, shall have such registrations replaced by the commissioner, at no cost, with licenses valid until the expiration date 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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b. "certified English as a second language school" or "certified ESL school" shall mean a language school conducted for-profit which provides instruction in English as a second language and which accepts no public funds and is certified pursuant to paragraph f of subdivision four of this section[.]; AND

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

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

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

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

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

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

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

(4) AN ONLINE EDUCATION MARKETPLACE SHALL NOT RECEIVE FROM A STUDENT AN AMOUNT GREATER THAN THE TUITION OR FEES TO BE CHARGED BY THE LICENSED PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL TO THE STUDENT, AND SHALL SEPARATELY ACCOUNT FOR MONIES RECEIVED FROM THE PROSPECTIVE STUDENT TO BE THEREAFTER TRANSFERRED TO A LICENSED PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL IN PAYMENT OF TUITION OR FEES, AND ANY REMUNERATION AND/OR COMPENSATION RECEIVED BY THE ONLINE EDUCATION MARKETPLACE FROM A LICENSED PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL IN PAYMENT FOR SERVICES RENDERED TO SUCH SCHOOL BY THE ONLINE EDUCATION MARKETPLACE. THE LICENSED PRIVATE CAREER SCHOOL OR CERTIFIED ESL SCHOOL SHALL ALSO SEPARATELY ACCOUNT FOR TUITION OR FEES TRANSFERRED TO THE SCHOOL BY AN ONLINE EDUCATION MARKETPLACE ON BEHALF OF A STUDENT IN PAYMENT OF TUITION OR FEES, AND PAYMENTS MADE BY THE SCHOOL TO AN ONLINE EDUCATION MARKETPLACE FOR SERVICES RENDERED TO THE SCHOOL BY THE ONLINE EDUCATION MARKETPLACE.

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

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

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

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

S 3. This act shall take effect immediately.