STATE OF NEW YORK

5598--A

Cal. No. 691

2019-2020 Regular Sessions

IN SENATE

May 8, 2019

Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law, in relation to unfair practices of proprietary institutions of higher education

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 349-f to read as follows:

§ 349-f. Proprietary institutions of higher education; unlawful unfair practices. 1. For purposes of this section, "proprietary institution" shall be defined as any licensed private career school, certified English as a Second Language school, or online education marketplace as defined in article one hundred one of the education law, or a for-profit degree-granting institution approved pursuant to the department of education, including any such institution with a physical presence in the state or enrolling New York state students in an online distance education program.

2. In addition to the protections afforded to consumers in this article for students that are attending or at one time attended a proprietary institution in this state, the attorney general whenever he or she believes from evidence satisfactory to him or her that any proprietary institution or agent or employee thereof has engaged in any of the acts or practices deemed to be unfair under this section, the attorney general may bring an action in the name and on behalf of the people of the state of New York to enjoin such unfair acts or practices, obtain restitution of any moneys or property obtained directly or indirectly by any such unfair acts or practices, and/or obtain civil penalties for

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

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violations of this section. In such action preliminary relief may be granted under article sixty-three of the civil practice law and rules.

3. An act or practice shall be deemed unfair under this section if:

(a) it causes or is likely to cause substantial injury to students that are attending or at one time attended a proprietary institution that cannot be reasonably avoided by students that are attending or at one time attended a proprietary institution; or

(b) it is not outweighed by countervailing benefits to students that are attending or at one time attended a proprietary institution, or to competition.

4. Nothing in this section shall supersede, amend or repeal any other law of this state under which the attorney general is authorized to take any action or conduct any inquiry.

§ 2. This act shall take effect immediately.