

STATE OF NEW YORK

5598

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

AN ACT to amend the general business law, in relation to unlawful 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:

1 Section 1. The general business law is amended by adding a new section
2 349-f to read as follows:

3 § 349-f. Proprietary institutions of higher education; unlawful unfair
4 practices. 1. For purposes of this section, "proprietary institution"
5 shall be defined as any licensed private career school, certified
6 English as a Second Language school, or online education marketplace as
7 defined in article one hundred one of the education law, or a for-profit
8 degree-granting institution approved pursuant to the department of
9 education.

10 2. In addition to the protections afforded to consumers in this arti-
11 cle, including but not limited to section three hundred forty-nine of
12 this article, for students that are attending or at one time attended a
13 proprietary institution in this state, the attorney general whenever he
14 or she believes from evidence satisfactory to him or her that any
15 proprietary institution, whether such institution maintains a physical
16 presence in the state or enrolls New York state students in an online
17 distance education program, or agent or employee thereof has engaged in
18 or is about to engage in any of the acts or practices deemed to be
19 unlawful unfair under this section, the attorney general may bring an
20 action in the name and on behalf of the people of the state of New York
21 to enjoin such unlawful unfair acts or practices, obtain restitution of
22 any moneys or property obtained directly or indirectly by any such
23 unlawful unfair acts or practices, and/or obtain civil penalties for
24 violations of this section. In such action preliminary relief may be
25 granted under article sixty-three of the civil practice law and rules.

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

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

3 (a) it causes or is likely to cause substantial injury to students
4 that are attending or at one time attended a proprietary institution
5 that cannot be reasonably avoided by students that are attending or at
6 one time attended a proprietary institution, as defined and regulated by
7 the state education department; or

8 (b) it is not outweighed by countervailing benefits to students that
9 are attending or at one time attended a proprietary institution, as
10 defined and regulated by the state education department, or to competi-
11 tion.

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

15 § 2. The commissioner of education shall promulgate rules and regu-
16 lations necessary for the implementation of this act within 180 days
17 after the effective date of this act.

18 § 3. This act shall take effect immediately.