STATE OF NEW YORK

3316

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Consumer Affairs and 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:

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

§ 349-g. 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.

2. In addition to the protections afforded to consumers in this article, including but not limited to section three hundred forty-nine of 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, whether such institution maintains a physical presence in the state or enrolls New York state students in an online distance education program, or agent or employee thereof has engaged in or is about to engage in any of the acts or practices deemed to be unlawful 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 unlawful unfair acts or practices, obtain restitution of any moneys or property obtained directly or indirectly by any such unlawful unfair acts or practices, and/or obtain civil penalties for violations of this section. In such action preliminary relief may be 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.

LBD02334-02-1

3. An act or practice shall be deemed unlawful 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, as defined and regulated by the state education department; or

(b) it is not outweighed by countervailing benefits to students that are attending or at one time attended a proprietary institution, as defined and regulated by the state education department, 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. The commissioner of education shall promulgate rules and regulations necessary for the implementation of this act within 180 days after the effective date of this act.

§ 3. This act shall take effect immediately.