

LEGISLATIVE BILL 370

Approved by the Governor February 19, 1982

Introduced by Goll, 16

AN ACT to amend sections 79-2803, 79-2804, 79-2812, 79-2820 to 79-2822, 79-2842, and 79-2846, Revised Statutes Supplement, 1980, relating to schools; to define a term; to eliminate an exception; to change provisions relating to the award of associate degrees; to provide the contents of applications; to change agent's provisions; to provide for a blanket bond; to provide a fee; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 79-2803, Revised Statutes Supplement, 1980, be amended to read as follows:

79-2803. As used in sections 79-2801 to 79-2858, unless the context otherwise requires:

(1) Private vocational educational institution shall mean a vocational technical, home study, business, or other school, or other organization or person, offering vocational credentials, or offering instruction or educational services for attainment of occupational objectives;

(2) Operate an educational institution shall mean to establish, keep, or maintain any facility or location in this state where, from, or through which education is offered or given for occupational objectives or educational credentials are offered or granted, and shall include contracting with any person, group, or entity to perform any such act;

(3) Authorization to operate shall mean approval of the board to operate or to contract to operate a private vocational educational institution in this state;

(4) Offer shall include, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described;

(5) Grant shall mean awarding, selling, conferring, bestowing, or giving;

(6) Education or educational services shall mean, but not be limited to, any class, course, or program of

vocational training, instruction, or study;

(7) Agent shall mean any person owning any interest in, employed by, or who regularly represents for remuneration, a private vocational educational institution within or outside this state who, by solicitation made in this state, enrolls or seeks to enroll a resident of this state for education offered by such institution, or offers to award educational credentials, for remuneration, on behalf of any such institution, or who holds himself or herself out to residents of this state as representing a private vocational educational institution;

(8) Agent's permit shall mean a nontransferable written authorization issued to a natural person by the board which allows that person to solicit or enroll any resident of this state for education in a private vocational educational institution;

(9) Entity shall include, but not be limited to, any company, firm, society, association, partnership, corporation, or trust; **and**

(10) Board shall mean the State Board of Education; **and** =

(11) Branch facility shall mean an additional facility operated by a private vocational educational institution at a location within this state other than at the principal facility of such institution, when:

(a) The curriculum offered at such additional facility is substantially the same as the curriculum offered at the principal facility;

(b) The ownership, management, and control of each such additional facility are the same as of the principal facility, except as otherwise provided in section 79-2812;

(c) The number of tuition paid students enrolled at each such additional facility does not exceed thirty per class; and

(d) Tuition and other charges incurred by a student for all courses at each such additional facility do not exceed one hundred fifty dollars in any twelve-month period.

Sec. 2. That section 79-2804, Revised Statutes Supplement, 1980, be amended to read as follows:

79-2804. The following education and educational institutions are exempted from the provisions of sections 79-2801 to 79-2858:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade;

(2) Education sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership or offered without charge;

(3) Education solely avocational or recreational in nature, as determined by the board, and institutions offering such education exclusively;

(4) Education offered by eleemosynary institutions, organizations, and agencies, if such education is not advertised or promoted as leading toward occupational objectives;

(5) Postsecondary educational institutions established, operated, and governed by this state or its political subdivisions;

(6) Institutions or organizations offering education or instruction which are licensed and regulated by agencies of this state other than the board, as of September 2, 1977, except that such institutions or organizations shall not be exempt from the provisions of sections 79-2801 to 79-2858 with respect to agent's permits; and

~~{7} Private-vocational--educational--institutions whose-total-tuition-and-fees-are-less--than--one--hundred-fifty-dollars-per-person-per-course-and-which-employ--not-less-than-fifty-per-cent--of--the--students--within--four-months-after-completing-the-course-of-study; and~~

~~{8}~~ {7} Institutions or organizations which offer education or instruction and which are licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff.

Sec. 3. That section 79-2812, Revised Statutes Supplement, 1980, be amended to read as follows:

79-2812. Each private vocational educational institution desiring to operate in this state shall make application to the board upon forms to be provided by the board. The application shall be accompanied by

descriptive literature published, or proposed to be published by the institution, containing the information specified in subdivision (4) of section 79-2808, including information required by rules and regulations of the board. The application shall include the identification of any branch facility. An additional facility which does not meet the criteria provided in subdivision (11) of section 79-2803 shall be considered a separate private vocational educational institution requiring separate authorization. Any facility at which education is offered by a franchisee of a franchisor authorized to operate as a private vocational educational institution pursuant to sections 79-2801 to 79-2858 shall be deemed a branch facility within the scope of such franchisor's authorization if such franchisor establishes the course curriculum and guidelines for teaching at such facility and the criteria for branch facilities provided in subdivision (11) of section 79-2803 are met. The application shall also be accompanied by a surety bond as provided in section 79-2842 and the application fee provided in section 79-2846.

Sec. 4. That section 79-2820, Revised Statutes Supplement, 1980, be amended to read as follows:

79-2820. The board, upon determining that a private vocational educational institution has complied with all the requirements of sections 79-2801 to 79-2858 and the rules and regulations of the board, shall issue a certificate of accreditation to the institution ~~and authority to award associate degrees,~~ and a letter clearly setting forth the courses of instruction offered by the institution which have satisfied all the requirements for accreditation. Any private vocational educational institution which is accredited pursuant to section 79-2810 and which is and has been awarding associate of applied science degrees for one year prior to January 1, 1978, is authorized to continue awarding such degrees if such institution complies with section 79-2810. Unless disapproved for failure to meet the requirements for accreditation on a continuing basis as provided for in sections 79-2801 to 79-2858 and as defined by the rules and regulations, accreditation shall be valid for a period of three years following the effective date appearing on the certificate. The application for reaccreditation shall be accompanied by the applicable fee. The board shall annually compile a list of the institutions and courses accredited under this section, and make such lists available to the public.

Sec. 5. An institution whose courses have been accredited pursuant to sections 79-2801 to 79-2858 may

apply to the board for authority to award associate of applied science degrees. Upon determining that the quality of the courses of instruction at the applicant institution are comparable to similar courses at public or private institutions in the state which award associate of applied science degrees, the board may grant the applicant institution the authority to award an associate of applied science degree, and shall issue a certificate setting forth the courses for which the associate of applied science degree may be awarded. Such authorization shall continue so long as the courses offered at the institution remain accredited.

Sec. 6. That section 79-2821, Revised Statutes Supplement, 1980, be amended to read as follows:

79-2821. Any private vocational educational institution having courses accredited, or having been authorized to award associate of applied science degrees pursuant to section 5 of this act, which ceases to meet any of the requirements for accreditation, or the awarding of associate of applied science degrees, shall be notified of such noncompliance by registered or certified mail, giving such institution ten days' notice of a hearing before the board to show cause why the accreditation of its courses, or the authorization to award associate of applied science degrees, should not be withdrawn. Upon such hearing, if the institution fails to show that corrective action has been taken, the institution shall be notified by registered or certified mail that the accreditation of its courses, or its authorization to award associate of applied science degrees, has been withdrawn.

Sec. 7. That section 79-2822, Revised Statutes Supplement, 1980, be amended to read as follows:

79-2822. Each person desiring to solicit or perform the services of an agent in this state shall make application to the board upon forms to be provided by the board. The application shall be accompanied by evidence of the good reputation and character of the applicant and shall state the institution or institutions which the applicant intends to represent. An agent--representing one institution--in--a--single--location--must--obtain--a separate agent's--permit--for--each--additional--location represented. An agent shall obtain a separate agent's permit for each institution represented. A single agent's permit and surety bond for one institution with one or more branch facilities shall extend to cover all branch facilities. If any institution which the applicant intends to represent does not have authorization to operate in this state, the application

shall be accompanied by the information required of institutions making application for such authorization to operate, and evidence to show that its place of business outside this state has been licensed or approved for operation by the appropriate state agency in the state in which it is domiciled. When a state of domicile has no authorization law for private vocational educational institutions, an agent's permit shall not be issued to an agent of such institution unless the institution has been accredited either by an accrediting association recognized by the United States Office of Education, or by the board following an onsite evaluation of the institution with all costs of the evaluation borne by the institution. The application for an agent's permit shall also be accompanied by evidence of a surety bond as provided in section 79-2843 and payment of the application fee provided in section 79-2846.

Sec. 8. That section 79-2842, Revised Statutes Supplement, 1980, be amended to read as follows:

79-2842. At the time application is made for authorization to operate, or for renewal thereof, the board may require the private vocational educational institution making such application to file with the board a good and sufficient surety bond in the penal sum of twenty thousand dollars or other security agreement deemed satisfactory by the board. Such bond or other security shall cover an institution's branch facilities and no additional bond or security shall be required of such institution. The bond or agreement shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond or agreement shall be conditioned to provide indemnification to any student or enrollee or his or her parent or guardian determined to have suffered loss or damage as a result of any act or practice which is a violation of sections 79-2801 to 79-2858 by the private vocational educational institution, and that the surety shall pay any final judgment rendered by any court of this state having jurisdiction, upon receipt of written notification thereof. Regardless of the number of years that such bond or agreement is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond or agreement. The bond or agreement may be continuous.

Sec. 9. That section 79-2846, Revised Statutes Supplement, 1980, be amended to read as follows:

79-2846. All fees collected pursuant to sections 79-2801 to 79-2858 shall be deposited in the state treasury to the credit of the General Fund. No fees

collected under the provisions of sections 79-2801 to 79-2858 shall be subject to refund. The fees to be collected by the board under sections 79-2801 to 79-2858 shall accompany an application for authorization to operate or an agent's permit, or for accreditation of courses in accordance with the following schedule:

(1) The initial application fee for private vocational educational institutions shall be twenty-five dollars;

(2) The annual report renewal fee for a private vocational educational institution shall be twenty-five dollars;

(3) The additional annual fee for each branch facility of an institution shall be twenty dollars;

~~(3)~~ (4) The initial fee for an agent's permit shall be ten dollars;

~~(4)~~ (5) The annual renewal fee for an agent's permit shall be ten dollars; and

(5) (6) The initial or renewal fee for accreditation shall be twenty-five dollars. The cost of onsite survey shall be borne by the institution.

Sec. 10. That original sections 79-2803, 79-2804, 79-2812, 79-2820 to 79-2822, 79-2842, and 79-2846, Revised Statutes Supplement, 1980, are repealed.