

CHAPTER 516

S.B. No. 163

AN ACT

relating to the protection of buildings and grounds at and regulation of private institutions of higher education; providing penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 51.212, Education Code, is amended by adding Subsection (c) to read as follows:

(c) In this section, "private institution of higher education" has the meaning assigned by Section 61.003(15) of this code.

SECTION 2. Section 51.215, Education Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) An institution of higher education~~[, as defined in Section 61.003 of this code, or a private institution of higher education that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools,]~~ is entitled to obtain criminal history record information pertaining to an applicant for employment for a security-sensitive position. The institution of higher education may deny employment to an applicant for a security-sensitive position who fails to provide a complete set of fingerprints upon request.

(e) In this section, "institution of higher education" means:

(1) an institution of higher education, as defined by Section 61.003(8) of this code; and

(2) a private institution of higher education, as defined by Section 61.003(15) of this code.

SECTION 3. The heading of Subchapter G, Chapter 61, Education Code, is amended to read as follows:

SUBCHAPTER G. REGULATION OF PRIVATE *POSTSECONDARY EDUCATIONAL* [DEGREE-GRANTING] INSTITUTIONS [OF HIGHER EDUCATION]

SECTION 4. Section 61.003, Education Code, is amended by adding Subdivision (15) to read as follows:

(15) "Private or independent institution of higher education" includes only a private or independent college or university that is:

(A) organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes);

(B) exempt from taxation under Article VIII, Section 2, of the Texas Constitution and Section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501); and

(C) accredited by a recognized accrediting agency.

SECTION 5. Subdivisions (2), (3), and (9), Section 61.302, Education Code, are amended to read as follows:

(2) "Private *postsecondary educational* institution [~~of higher education~~]" or "institution" means an educational institution which:

(A) is not an institution of higher education as defined by Section 61.003(7) of this code;

(B) is incorporated under the laws of this state, maintains a place of business in this state, has a representative present in this state, or solicits business in this state; and

(C) furnishes or offers to furnish courses of instruction in person, by electronic media, or by correspondence leading to a degree or providing credits alleged to be applicable to a degree.

(3) "Agent" means a person employed by or representing a private *postsecondary educational* institution [~~of higher education~~] who solicits students for enrollment in the institution.

(9) "Educational or training establishment" means an enterprise that would otherwise be a private *postsecondary educational* institution [~~of higher education~~], except the enterprise does not provide courses or credits alleged to be applicable to a degree.

SECTION 6. Subsection (f), Section 61.303, Education Code, is amended to read as follows:

(f) A private *postsecondary educational* institution [~~of higher education~~] may not establish or operate a branch campus, extension center, or other off-campus unit in Texas except as provided by Subsection (g) of this section or as provided under the rules of the board.

SECTION 7. Section 61.304, Education Code, is amended to read as follows:

Sec. 61.304. **REQUISITE AUTHORITY TO GRANT DEGREES AND OFFER COURSES.** A person may not grant or award a degree on behalf of a private *postsecondary educational* institution [~~of higher education~~] unless the institution has been issued a certificate of authority to grant the degree by the board in accordance with the provisions of this subchapter. A person may not represent that credits earned or granted by that person or institution are applicable for credit toward a degree to be granted by some other person or institution except under conditions and in a manner specified and approved by the board. The board is empowered to specify and regulate the manner, condition, and language used by an institution or person or agents thereof in making known that the person or institution holds a certificate of authority and the interpretation of the significance of such certificate.

SECTION 8. Subsection (a), Section 61.305, Education Code, is amended to read as follows:

(a) A private *postsecondary educational* institution [~~of higher education~~] that has been in operation for not less than two years may apply to the board for a certificate of authority to grant a degree in a specified program of study on application forms provided by the board.

SECTION 9. Subsections (a) and (d), Section 61.308, Education Code, are amended to read as follows:

(a) A private *postsecondary educational* institution [~~of higher education~~] which desires to renew its certificate of authority shall apply to the board at least 60 days prior to the expiration of the current certificate.

(d) A private *postsecondary educational* institution [~~of higher education~~] may be granted successive certificates of authority for a period not to exceed the number of years provided by rule of the board. The board rules must recognize that certification by the state is intended to safeguard the public interest until an institution has developed the strength to satisfy appropriate accreditation standards and it is intended that an institution advance from certification status to fully accredited status in due course.

SECTION 10. Section 61.312, Education Code, is amended to read as follows:

Sec. 61.312. HONORARY DEGREES. No person may award an honorary degree on behalf of a private *postsecondary educational* institution [~~of higher education~~] subject to the provisions of this subchapter unless the institution has been issued a certificate of authority to award such a degree. The honorary degree shall plainly state on its face that it is honorary.

SECTION 11. Subsection (a), Section 61.313, Education Code, is amended to read as follows:

(a) A person may not use the term "college" or "university" in the official name or title of a private *postsecondary educational* institution [~~of higher education~~] established after the effective date of this subchapter unless the institution has been issued a certificate of authority to grant a degree or degrees.

SECTION 12. Section 61.314, Education Code, is amended to read as follows:

Sec. 61.314. ADVISORY COUNCIL ON PRIVATE *POSTSECONDARY EDUCATION-AL* [~~DEGREE GRANTING~~] INSTITUTIONS [~~OF HIGHER EDUCATION~~]. (a) The board shall appoint an advisory council on private *postsecondary educational* [~~degree-granting~~] institutions [~~of higher education~~] consisting of six members with experience in the field of higher education and representative of private institutions of higher education as defined by Section 61.003(15) in the State of Texas which are exempt from the provisions of this subchapter. Council members serve for terms of two years from the date of their appointment and are entitled to reimbursement for actual expenses incurred in carrying out the work of the council.

(b) The council shall advise the board on standards and procedures to be used in carrying out the provisions of this subchapter.

SECTION 13. Section 61.317, Education Code, is amended to read as follows:

Sec. 61.317. PENALTIES. (a) Any person who confers or offers to confer a degree on behalf of a private *postsecondary educational* institution [~~of higher education~~] subject to the provisions of this subchapter which has not been issued a certificate of authority to grant degrees is guilty of a misdemeanor and upon conviction is subject to a fine of not less than \$1,000 nor more than \$5,000. Each degree conferred without authority constitutes a separate offense.

(b) Any person who establishes a private *postsecondary educational* institution [~~of higher education~~] and uses the term "college" or "university" in the official name of the institution without first having been issued a certificate of authority to grant degrees for the institution or any person who establishes an educational or training establishment and uses the term "college" or "university" in the official name or title of the establishment is guilty of a misdemeanor and upon conviction is subject to a fine of not less than \$1,000 nor more than \$3,000.

(c) Any agent who solicits students for enrollment in a private *postsecondary educational* institution [~~of higher education~~] subject to the provisions of this subchapter without a certificate of registration is guilty of a misdemeanor and on conviction is subject to a fine of not less than \$500 nor more than \$1,000.

(d) Any operations which are found after due process to be in fraudulent violation of this Act shall be terminated.

SECTION 14. This Act takes effect September 1, 1993.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 23, 1993: Yeas 31, Nays 0; the Senate concurred in House amendment on May 25, 1993, by a viva-voce vote; passed the House, with amendment, on May 22, 1993, by a non-record vote.

Approved June 8, 1993.

Effective Sept. 1, 1993.