

CHAPTER 352

EDUCATION - UNIVERSITIES AND COLLEGES

SENATE BILL 08-167

BY SENATOR(S) Tupa, and Windels;
also REPRESENTATIVE(S) Massey, Merrifield, Casso, Madden, and Middleton.

AN ACT

CONCERNING THE AUTHORIZATION FOR PRIVATE HIGHER EDUCATION INSTITUTIONS TO OFFER DEGREE PROGRAMS, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 23-2-102 (1), (3), and (4), Colorado Revised Statutes, are amended, and the said 23-2-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

23-2-102. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Degree" means any statement, diploma, certificate, or other writing in any language which indicates or represents, or which is intended to indicate or represent, that the person named thereon is learned in or has satisfactorily completed a prescribed course of study in a particular field of endeavor or that the person named thereon has demonstrated proficiency in any field of endeavor as a result of formal preparation or training.~~ "COMMISSION" MEANS THE COLORADO COMMISSION ON HIGHER EDUCATION CREATED PURSUANT TO SECTION 23-1-102.

(1.3) "DEGREE" MEANS ANY STATEMENT, DIPLOMA, CERTIFICATE, OR OTHER WRITING IN ANY LANGUAGE WHICH INDICATES OR REPRESENTS, OR WHICH IS INTENDED TO INDICATE OR REPRESENT, THAT THE PERSON NAMED THEREON IS LEARNED IN OR HAS SATISFACTORILY COMPLETED A PRESCRIBED COURSE OF STUDY IN A PARTICULAR FIELD OF ENDEAVOR OR THAT THE PERSON NAMED THEREON HAS DEMONSTRATED PROFICIENCY IN ANY FIELD OF ENDEAVOR AS A RESULT OF FORMAL PREPARATION OR TRAINING.

(1.5) "DEPARTMENT" MEANS THE DEPARTMENT OF HIGHER EDUCATION CREATED

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AND EXISTING PURSUANT TO SECTION 24-1-114, C.R.S.

(3) "Private college or university" means a postsecondary educational institution doing business or maintaining a place of business in the state of Colorado which offers courses of instruction or study wherein credits may be earned AND APPLIED toward a degree in a field of endeavor. ~~which institution is accredited on the basis of an on-site review in Colorado by one of the six nationally recognized regional accrediting associations or by an accrediting agency determined by the Colorado commission on higher education to be appropriate to its educational purposes and programs, or an institution which is making reasonable and timely progress toward such accreditation, as determined by or in accordance with standards determined by the commission, as of May 27, 1981.~~

(4) "Seminary" or "bible college" means a bona fide religious postsecondary educational institution doing business or maintaining a place of business in the state of Colorado and which is exempt from property taxation under the laws of this state THAT OFFERS BACHELOR'S, MASTER'S, OR DOCTORAL DEGREES OR DIPLOMAS.

SECTION 2. Article 2 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

23-2-103.3. Authorization to do business in Colorado. (1) (a) TO DO BUSINESS IN COLORADO, A PRIVATE COLLEGE OR UNIVERSITY SHALL APPLY FOR AND RECEIVE AUTHORIZATION FROM THE DEPARTMENT. AFTER RECEIVING AN APPLICATION, THE DEPARTMENT SHALL REVIEW THE APPLICATION TO DETERMINE THE COMPLIANCE OF A PRIVATE COLLEGE OR UNIVERSITY WITH THE PROVISIONS OF THIS ARTICLE AND OTHER APPLICABLE LAW. THE DEPARTMENT SHALL NOT RECOMMEND AND THE COMMISSION SHALL NOT APPROVE AN APPLICATION FROM A PRIVATE COLLEGE OR UNIVERSITY THAT IN THE PRECEDING TWO YEARS HAS HAD ITS ACCREDITATION SUSPENDED OR WITHDRAWN, HAS BEEN PROHIBITED FROM DOING BUSINESS IN ANOTHER STATE, OR HAS SUBSTANTIALLY THE SAME OWNERSHIP OR PRINCIPAL OFFICERS AS A PRIVATE COLLEGE OR UNIVERSITY THAT HAS HAD ITS ACCREDITATION SUSPENDED OR WITHDRAWN OR THAT HAS BEEN PROHIBITED FROM DOING BUSINESS IN ANOTHER STATE. AN APPLICATION SHALL INCLUDE PAYMENT OF THE FEE DETERMINED ACCORDING TO SECTION 23-2-104.5.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL NOT APPLY TO A PRIVATE COLLEGE OR UNIVERSITY THAT, AS OF THE EFFECTIVE DATE OF THIS SECTION, WAS AUTHORIZED TO DO BUSINESS IN COLORADO AND THAT AWARDED DEGREES.

(2) TO DO BUSINESS IN COLORADO, A PRIVATE COLLEGE OR UNIVERSITY IS REQUIRED TO BE ACCREDITED ON THE BASIS OF AN ON-SITE REVIEW IN COLORADO BY A NATIONALLY RECOGNIZED REGIONAL ACCREDITING ASSOCIATION, BY AN ACCREDITING AGENCY OR ASSOCIATION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION, OR BY AN ACCREDITING AGENCY DETERMINED BY THE COMMISSION TO BE IN ACCORDANCE WITH ITS EDUCATIONAL PURPOSES AND PROGRAMS; EXCEPT THAT A PRIVATE COLLEGE OR UNIVERSITY MAY OPERATE FOR AN INITIAL PERIOD WITHOUT ACCREDITATION IF THE COMMISSION DETERMINES, IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE COMMISSION, THAT THE PRIVATE COLLEGE OR UNIVERSITY IS LIKELY TO BECOME ACCREDITED IN A

REASONABLE PERIOD OF TIME OR IS MAKING REASONABLE AND TIMELY PROGRESS TOWARD ACCREDITATION.

(3) A PRIVATE COLLEGE OR UNIVERSITY SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF ANY COMMUNICATION FROM ITS ACCREDITING AGENCY THAT INDICATES IT MAY BE AT RISK OF LOSING ACCREDITATION, NOT BEING AWARDED ACCREDITATION, OR BEING AWARDED A LESSER ACCREDITATION STATUS.

(4) TO DO BUSINESS IN COLORADO, A BIBLE COLLEGE OR SEMINARY SHALL APPLY FOR AND RECEIVE AUTHORIZATION FROM THE DEPARTMENT AND ESTABLISH THAT IT QUALIFIES AS A BONA FIDE RELIGIOUS INSTITUTION AND AS AN INSTITUTION OF POSTSECONDARY EDUCATION, AS DEFINED BY RULES PROMULGATED BY THE COLORADO COMMISSION ON HIGHER EDUCATION. A BIBLE COLLEGE OR SEMINARY THAT MEETS THE CRITERIA AND RULES ESTABLISHED BY THIS SUBSECTION (4) SHALL BE EXEMPT FROM THE PROVISIONS OF SUBSECTIONS (1), (2), AND (3) OF THIS SECTION. AN APPLICATION FROM A BONA FIDE RELIGIOUS INSTITUTION AND AN INSTITUTION OF POSTSECONDARY EDUCATION MADE PURSUANT TO THIS SUBSECTION (4) SHALL NOT INCLUDE A PAYMENT OF THE FEE DETERMINED ACCORDING TO SECTION 23-2-104.5. THE PROVISIONS OF THIS SUBSECTION (4) SHALL NOT APPLY TO A BIBLE COLLEGE OR SEMINARY THAT, AS OF THE EFFECTIVE DATE OF THIS SECTION, WAS AUTHORIZED TO DO BUSINESS IN COLORADO AND THAT AWARDED DEGREES.

(5) (a) THE COMMISSION MAY ORDER THE DEPARTMENT, FOR CAUSE, TO REVIEW A PRIVATE COLLEGE OR UNIVERSITY, BIBLE COLLEGE, OR SEMINARY TO DETERMINE WHETHER TO REVOKE THE PRIVATE COLLEGE'S OR UNIVERSITY'S, BIBLE COLLEGE'S, OR SEMINARY'S AUTHORIZATION OR TO PLACE IT ON PROBATIONARY STATUS. A REVIEW CONDUCTED PURSUANT TO THIS SUBSECTION (5) SHALL ENSURE THAT THE PRIVATE COLLEGE OR UNIVERSITY OR BIBLE COLLEGE OR SEMINARY MEETS THE REQUIREMENTS ADOPTED PURSUANT TO THIS ARTICLE.

(b) THE COMMISSION MAY REVOKE THE PRIVATE COLLEGE'S OR UNIVERSITY'S, BIBLE COLLEGE'S, OR SEMINARY'S AUTHORIZATION IF IT FINDS THAT THE PRIVATE COLLEGE OR UNIVERSITY IS NO LONGER ACCREDITED. THE COMMISSION MAY PLACE THE PRIVATE COLLEGE OR UNIVERSITY ON PROBATIONARY STATUS IF THE COMMISSION FINDS THE PRIVATE COLLEGE OR UNIVERSITY HAS BEEN PLACED ON PROBATION OR THE EQUIVALENT BY AN ACCREDITING AGENCY.

(c) THE COMMISSION MAY REVOKE THE BIBLE COLLEGE'S OR SEMINARY'S AUTHORIZATION OR PLACE IT ON PROBATIONARY STATUS ONLY IF IT FINDS THAT THE BIBLE COLLEGE OR SEMINARY NO LONGER MEETS THE DEFINITION OF BIBLE COLLEGE OR SEMINARY AS DEFINED UNDER SECTION 23-2-102 OR NO LONGER MEETS THE REQUIREMENTS ADOPTED PURSUANT TO THIS ARTICLE.

(6) NOTHING IN THIS SECTION SHALL PRECLUDE A SEMINARY OR BIBLE COLLEGE FROM SEEKING ACCREDITATION.

23-2-104.5. Fees. THE COMMISSION SHALL ESTABLISH A FEE TO BE PAID BY A PRIVATE COLLEGE OR UNIVERSITY THAT SUBMITS AN APPLICATION PURSUANT TO THIS ARTICLE. THE AMOUNT OF THE FEE SHALL REFLECT THE DIRECT AND INDIRECT COSTS OF THE ADMINISTRATION OF THIS ARTICLE. THE COMMISSION SHALL PROPOSE, AS PART OF THE DEPARTMENT'S ANNUAL BUDGET REQUEST, AN ADJUSTMENT IN THE

AMOUNT OF THE FEES THAT IT IS AUTHORIZED TO COLLECT PURSUANT TO THIS SECTION. THE BUDGET REQUEST AND THE ADJUSTED FEES SHALL REFLECT THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS ARTICLE.

SECTION 3. 23-2-103.5, Colorado Revised Statutes, is amended to read:

23-2-103.5. Notification and deposit of records upon discontinuance. If a private or public college or university, seminary or bible college, or private occupational school discontinues operation in this state, its chief executive officer shall notify the ~~Colorado commission on higher education~~ DEPARTMENT of the date of discontinuance and the name and address of the agency where records of ~~such~~ THE institution will be maintained. Records shall be permanently maintained and copies may be obtained by authorized parties. ~~and such~~ THE records shall include, but not be limited to, information pertaining to the admission of each student and former student and the educational record of each student and former student. Financial aid records of each student and former student shall be retained consistent with state and federal regulations.

SECTION 4. 23-2-104, Colorado Revised Statutes, is amended to read:

23-2-104. Administration of article - complaints - injunctive proceedings.

(1) The ~~Colorado commission on higher education~~ DEPARTMENT is charged with the administration of this article PURSUANT TO STATUTE AND APPROPRIATE POLICIES ADOPTED BY THE COMMISSION.

(2) (a) THE COMMISSION SHALL SPECIFY PROCEDURES BY WHICH A STUDENT OR FORMER STUDENT OF A PRIVATE COLLEGE OR UNIVERSITY, BIBLE COLLEGE, OR SEMINARY MAY FILE A COMPLAINT WITH THE DEPARTMENT CONCERNING THE INSTITUTION IN WHICH THE STUDENT IS OR WAS ENROLLED. THE DEPARTMENT IS AUTHORIZED TO INVESTIGATE COMPLAINTS BASED ON A CLAIM OF A DECEPTIVE TRADE PRACTICE AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION. THE DEPARTMENT SHALL NOT HAVE JURISDICTION TO CONSIDER COMPLAINTS THAT INFRINGE ON THE ACADEMIC FREEDOM, RELIGIOUS FREEDOM, OR QUESTION THE CURRICULUM CONTENT OF A PRIVATE COLLEGE OR UNIVERSITY, BIBLE COLLEGE, OR SEMINARY.

(b) UPON RECEIPT OF A COMPLAINT, THE DEPARTMENT SHALL VERIFY THAT THE COMPLAINT WARRANTS INVESTIGATION UNDER THE GUIDELINES ESTABLISHED BY THE COMMISSION AND AS A DECEPTIVE TRADE PRACTICE. A COMPLAINT WILL WARRANT INVESTIGATION ONLY WHEN THE STUDENT HAS EXHAUSTED ALL COMPLAINT AND APPEALS PROCESSES AVAILABLE AT THE INSTITUTION. A COMPLAINT SHALL BE DISMISSED IF IT DOES NOT WARRANT INVESTIGATION UNDER THE COMMISSION'S GUIDELINES AND IS NOT A DECEPTIVE TRADE PRACTICE. IF THE COMPLAINT WARRANTS INVESTIGATION, THE DEPARTMENT SHALL FIRST FORWARD THE COMPLAINT TO THE INSTITUTION FOR A WRITTEN RESPONSE. THE INSTITUTION SHALL HAVE THIRTY DAYS TO FORWARD ITS RESPONSE TO THE DEPARTMENT, AND A COPY OF THE RESPONSE SHALL BE FORWARDED TO THE STUDENT. DURING THE THIRTY-DAY PERIOD, THE INSTITUTION MAY ATTEMPT TO RESOLVE THE COMPLAINT WITH THE STUDENT, AND THE DEPARTMENT SHALL ASSIST IN THE EFFORTS TO RESOLVE THE COMPLAINT. IF THE DEPARTMENT DETERMINES AT ANY TIME THAT A COMPLAINT NO LONGER WARRANTS INVESTIGATION, THE DEPARTMENT SHALL

DISMISS THE COMPLAINT.

(c) IF A COMPLAINT IS NOT RESOLVED DURING THE THIRTY-DAY PERIOD, THE DEPARTMENT MAY DISMISS THE COMPLAINT BASED ON THE INSTITUTION'S RESPONSE, INVESTIGATE THE COMPLAINT FURTHER, OR RECOMMEND THAT THE COMMISSION EVALUATE THE MERITS OF THE COMPLAINT. IF THE COMMISSION FINDS THE COMPLAINT IS MERITORIOUS, IT MAY RECOMMEND THAT THE PRIVATE COLLEGE OR UNIVERSITY, BIBLE COLLEGE, OR SEMINARY TAKE APPROPRIATE ACTION TO REMEDY THE COMPLAINT.

(d) IF THE PRIVATE COLLEGE OR UNIVERSITY, BIBLE COLLEGE, OR SEMINARY DOES NOT TAKE THE ACTION ON THE RECOMMENDATION OF THE COMMISSION, THE COMMISSION MAY FORWARD THE COMPLAINT AND FINDINGS TO THE ATTORNEY GENERAL.

(3) The commission, acting through the attorney general, may proceed by injunction against any violation of this article, but ~~no such~~ AN INJUNCTION proceeding ~~and no~~ OR AN order issued therein or as a result thereof shall NOT bar the imposition of any other penalty imposed for violation of this article.

(4) IT IS A DECEPTIVE TRADE PRACTICE FOR:

(a) A SCHOOL OR AGENT TO MAKE OR CAUSE TO BE MADE ANY STATEMENT OR REPRESENTATION, ORAL, WRITTEN, OR VISUAL, IN CONNECTION WITH THE OFFERING OF EDUCATIONAL SERVICES IF SUCH SCHOOL OR AGENT KNOWS OR REASONABLY SHOULD HAVE KNOWN THE STATEMENT OR REPRESENTATION TO BE MATERIALLY FALSE, SUBSTANTIALLY INACCURATE, OR MATERIALLY MISLEADING;

(b) A SCHOOL OR AGENT TO REPRESENT FALSELY, DIRECTLY OR BY IMPLICATION, THROUGH THE USE OF A TRADE OR BUSINESS NAME TO DECEPTIVELY CONCEAL THE FACT THAT IT IS A SCHOOL;

(c) A SCHOOL OR AGENT TO ADOPT A NAME, TRADE NAME, OR TRADEMARK THAT REPRESENTS FALSELY, DIRECTLY OR BY IMPLICATION, THE QUALITY, SCOPE, NATURE, SIZE, OR INTEGRITY OF THE SCHOOL OR ITS EDUCATIONAL SERVICES;

(d) A SCHOOL OR AGENT TO INTENTIONALLY AND MATERIALLY REPRESENT FALSELY, DIRECTLY OR BY IMPLICATION, THAT STUDENTS COMPLETING A COURSE OR PROGRAM OF INSTRUCTION SUCCESSFULLY MAY TRANSFER CREDIT THEREFORE TO ANY INSTITUTION OF HIGHER EDUCATION;

(e) A SCHOOL OR AGENT TO INTENTIONALLY AND MATERIALLY REPRESENT FALSELY, DIRECTLY OR BY IMPLICATION, IN ITS ADVERTISING OR PROMOTIONAL MATERIALS OR IN ANY OTHER MANNER, THE SIZE, LOCATION, FACILITIES, OR EQUIPMENT OF THE SCHOOL, THE NUMBER OR EDUCATIONAL EXPERIENCE QUALIFICATIONS OF ITS FACULTY, THE EXTENT OR NATURE OF ANY APPROVAL RECEIVED FROM ANY STATE AGENCY, OR THE EXTENT OR NATURE OF ANY ACCREDITATION RECEIVED FROM ANY ACCREDITING AGENCY OR ASSOCIATION;

(f) A SCHOOL OR AGENT TO PROVIDE PROSPECTIVE STUDENTS WITH ANY TESTIMONIALS, ENDORSEMENTS, OR OTHER INFORMATION THAT HAS THE TENDENCY

TO MATERIALLY MISLEAD OR DECEIVE PROSPECTIVE STUDENTS OR THE PUBLIC REGARDING CURRENT PRACTICES OF THE SCHOOL;

(g) AN AGENT REPRESENTING AN OUT-OF-STATE SCHOOL TO REPRESENT, DIRECTLY OR BY IMPLICATION, THAT SAID SCHOOL IS APPROVED OR ACCREDITED BY THE STATE OF COLORADO;

(h) A SCHOOL OR AGENT TO DESIGNATE TITLES TO EMPLOYEES WHOSE PRIMARY JOB DUTIES ARE TO RECRUIT STUDENTS, WHICH TITLES HAVE THE TENDENCY TO MISLEAD OR DECEIVE PROSPECTIVE STUDENTS OR THE PUBLIC REGARDING THE AUTHORITY OR QUALIFICATIONS OF SUCH EMPLOYEES.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of higher education, for the fiscal year beginning July 1, 2008, the sum of thirty-one thousand five hundred dollars (\$31,500) cash funds, from fees paid by private colleges and universities pursuant to section 23-2-104.5, Colorado Revised Statutes, or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 29, 2008