

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/18/03

A Bill

HOUSE BILL 2730

5 By: Representative Agee
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
10 PERTAINING TO PRIVATE CAREER SCHOOLS; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13 AN ACT TO AMEND PROVISIONS OF THE
14 ARKANSAS CODE PERTAINING TO PRIVATE
15 CAREER SCHOOLS.
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 *SECTION 1. Arkansas Code § 6-51-602(2), regarding definitions used in*
22 *the law pertaining to private career schools, is amended to read as follows:*

23 *(2)(A) "School" means any person, firm, partnership, association,*
24 *corporation, or other form of business organization seeking to do business or*
25 *offering in the State of Arkansas such resident or correspondence training*
26 *that leads to or enhances occupational qualifications, whether or not the*
27 *institution is subject to the jurisdiction of the State Board of Higher*
28 *Education under § 6-61-301 State Board of Higher Education;*

29 *(B) "School" shall also mean any firm, partnership, association,*
30 *corporation, or other form of business organization which offers instruction*
31 *in flight or ground school to student fliers or mechanics;*

32 *(C) "School" shall also mean any firm, partnership, association,*
33 *corporation, or other form of business organization which offers training as*
34 *preparation for passing exams which may lead to employment;*

35 *(D) "School" shall also mean any firm, partnership, association,*
36 *corporation, or other form of business organization which offers driver*



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1 education training excluding those courses taught motor vehicle violators
 2 pursuant to court order;

3
 4 SECTION 2. Arkansas Code § 6-51-602(8) through (10), regarding
 5 definitions used in the law pertaining to private career schools, are amended
 6 to read as follows:

7 (8) "~~Correspondence~~ Distance Education school" means any school in
 8 which all programs of study are conducted by ~~correspondence~~ distance
 9 education;

10 (9) "Combination school" means any school in which programs of study
 11 are conducted by both ~~correspondence~~ distance education and resident
 12 training;

13 (10) "Extension course site" means a location away from the school
 14 whereby a ~~specialized~~ course or courses are conducted one (1) or more times
 15 during the licensure period;

16
 17 SECTION 3. Arkansas Code § 6-51-603(12), regarding exemptions from the
 18 law pertaining to private career schools, is amended to read as follows:

19 (12)(A) Training offered on military bases where a majority of the
 20 students enrolled are active ~~or retired military personnel or their~~
 21 ~~dependents~~ duty personnel or their adult family members, Department of
 22 Defense civilian employees or their adult family members, members of the U.
 23 S. Armed Forces Reserve Components, and retirees.

24 (B) These organizations shall remain exempt from the requirement
 25 for licensure if required to move off of the military installation for a
 26 period of not more than ninety (90) days because of a change in security
 27 level, which would not allow civilian students on the installation.

28 (C) The board shall have the authority to review any situations
 29 that extend past the ninety-day period and determine if the exemption status
 30 should remain for the school.

31
 32 SECTION 4. Arkansas Code § 6-51-605(i) and (j) are amended to read as
 33 follows:

34 (i) A ~~minimum of four~~ (4) majority of favorable votes by the board
 35 members at an official meeting is required for adoption of a recommendation.

36 (j) Board members may be reimbursed for expenses in accordance with §

1 ~~25-16-901 et seq.~~ and stipends according to § 25-16-903.

2
3 SECTION 5. Arkansas Code § 6-51-605(m) is amended to read as follows:

4 (m)(1)(A) The board shall annually require background investigations
5 for all partners or shareholders with ten percent (10%) or more ownership
6 interest in a school when the school seeks an original license.

7 (B) The board may establish a schedule for periodic
8 background checks for partners or shareholders with ten percent (10%) or more
9 ownership interest in a school when seeking renewal of a school license.

10 (2)(A) ~~The Department of Arkansas State Police shall be~~
11 ~~authorized to conduct background investigations for applicants that have~~
12 ~~executed the appropriate release, and the background shall consist of whether~~
13 ~~the applicant has been convicted in any jurisdiction of a felony, a Class A~~
14 ~~misdeemeanor, or a crime involving an act of violence.~~ The partners or
15 shareholders shall apply to the Identification Bureau of the Department of
16 Arkansas State Police for a state and national criminal background check, to
17 be conducted by the Federal Bureau of Investigation.

18 ~~(B) The department shall be authorized to disseminate said~~
19 ~~background information to the board.~~ The check shall conform to the
20 applicable federal standards and shall include the taking of fingerprints.

21 (C) The applicant shall sign a release of information to
22 the board and shall be responsible to the Department of Arkansas State Police
23 for the payment of any fee associated with the criminal background check.

24 (D) Upon completion of the criminal background check, the
25 Identification Bureau of the Department of Arkansas State Police shall
26 forward all information obtained concerning the person in the commission of
27 any offense listed in § 6-51-606(h)(3) to the board.

28 (E)(i) The board may issue a nonrenewable temporary
29 license pending the results of the criminal background check.

30 (ii) The license shall be valid for no more than six
31 (6) months.

32 (iii) Upon receipt of information from the
33 Identification Bureau of the Department of Arkansas State Police that only
34 one (1) of the partners or shareholders of the school holding the temporary
35 license has been convicted of any offense listed in § 6-51-606(h)(3) shall be
36 reviewed by the board.

SECTION 6. Arkansas Code § 6-51-605 is amended by adding an additional subsection to read as follows:

(n)(1) The provisions of § 6-51-606(h) may be waived by the board upon the request of:

(A) An affected applicant for licensure; or

(B) The partners or shareholders of a school holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat.

SECTION 7. Arkansas Code § 6-51-606(h)(3) is amended to read as follows:

(3) The applicant or licensee has pleaded guilty, entered a plea of nolo contendere, or has been found guilty of a crime constituting a felony by a judge or jury in any state or federal court; or in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld, by a court of this state, another state, or the federal government for:

(A) Any felony, or

(B) Any act involving moral turpitude, gross immorality, or which is related to the qualifications, functions, and duties of a licensee.

SECTION 8. Arkansas Code § 6-51-606(i) through (l) are amended to read as follows:

(i) The board shall have the authority to impose sanctions pursuant to § 25-15-217.

1 ~~(i)~~(j) The board shall have the power to revoke a license if in its
2 discretion it determines that:

3 (1) The licensee has failed to cure a deficiency leading to a
4 license probation within the time as may be reasonably prescribed by the
5 board; or

6 (2) The licensee while on probation has been found by the board
7 to have incurred an additional infraction of this subchapter; or

8 (3) The licensee has closed a school without first having
9 completed the training of all students currently enrolled or having made
10 tuition refunds to students or their lenders.

11 ~~(j)~~(k)(1) Unless directed to do so by court order, the board shall
12 not, for a period of five (5) years following revocation, reinstate the
13 license of a school or allow an owner of any such school to seek licensure of
14 another school.

15 (2) Upon expiration of licensure status, the school must
16 apply for an original license in accordance with the provisions of this
17 subchapter.

18 ~~(k)~~(1)(1) Upon closure of a school located in Arkansas and licensed
19 under any provision of this subchapter, whether for license revocation or any
20 other cause, all student ~~academic~~ and financial aid records for the previous
21 ~~ten (10)~~ three (3) years of the school's operation and all student
22 transcripts regardless of age must be delivered to the director.

23 (2) Delivered records shall be arranged in alphabetical order
24 and stored in boxes or in data format at the discretion of the board.

25 (3) The director shall be responsible for the proper security,
26 storage, and maintenance of all such records.

27 ~~(l)~~ ~~No school shall incorporate the name "university" unless it is~~
28 ~~seeking to offer both undergraduate and graduate programs through the~~
29 ~~institutional and program certification of the Department of Higher~~
30 ~~Education.~~

31
32 SECTION 9. Arkansas Code § 6-51-607(a) is amended to read as follows:

33 (a)(1) Each school licensed under this subchapter shall pay annually a
34 fee to be set by the board.

35 (2) The fee shall be set at such amount as the board deems
36 necessary to establish the fund and to maintain the fund as necessary.

1 (3) For a renewing school, The the fee shall be based on the
 2 enrollment of Arkansas residents in the preceding twelve (12) months of July
 3 1 through June 30 and be set at such amount as the board deems necessary to
 4 establish the fund and to reestablish the fund as necessary.

5 (4)(A) For an original license, the fee shall be a percentage as
 6 determined by the board of the sum of the tuitions for each program offered.

7 (B) Additionally, during the first twelve (12) months of
 8 licensure, the same percentage shall be paid to the Private Career School
 9 Student Protection Trust Fund on additional new programs of study.

10
 11 SECTION 10. Arkansas Code § 6-51-607(e) is amended to read as follows:

12 (e) With the approval of the board, the director may use any amounts
 13 in the fund, including accumulated interest, to:

14 (1) Pay claims filed by students not to exceed a total of one
 15 hundred thousand dollars (\$100,000) for all students of the school when a
 16 school becomes insolvent or ceases to operate without offering a complete
 17 program of study;

18 (2) Pay expenses incurred by a school not to exceed a total of
 19 one hundred thousand dollars (\$100,000) that are directly related to
 20 educating a student placed in the school under this subchapter, including the
 21 applicable tuition for the period of time for which the student has paid
 22 tuition;

23 (3) Reimburse the Private Career Education Fund for expenses
 24 directly associated with the storage and maintenance of academic and
 25 financial aid records of those students adversely affected by school
 26 closings;

27 (4)(A) Reimburse the Private Career Education Fund for
 28 administrative cost due to school closings, including but not limited to:

29 (i) Travel expenses; and

30 (ii) The employment of temporary personnel to assist
 31 with transport and organization of student records.

32 (B) Provided further, that reimbursement for the expenses
 33 incurred in subdivision (e)(4)(A) of this section shall not exceed five
 34 thousand dollars (\$5,000) per school closing.

35
 36 SECTION 11. Arkansas Code § 6-51-609(a)(1) is amended to read as

1 follows:

2 (a)(1) No person representing a resident, ~~correspondence~~ distance
3 education, or combination school shall solicit or sell in Arkansas any
4 program of study for consideration or remuneration unless the admissions
5 representative first secures a license from the director.

6
7 SECTION 12. Arkansas Code § 6-51-609(e) is amended to read as follows:

8 (e)(1) ~~The Department of Arkansas State Police shall be authorized to~~
9 ~~conduct background investigations for applicants that have executed the~~
10 ~~appropriate release, a said background investigation shall consist of whether~~
11 ~~the applicant has been convicted in any jurisdiction of a felony, a Class A~~
12 ~~misdemeanor, or a crime involving an act of violence.~~ An applicant for an
13 admissions representative's license shall apply to the Identification Bureau
14 of the Department of Arkansas State Police for a state and national criminal
15 background check, to be conducted by the Federal Bureau of Investigation.

16 (2) ~~The Department of Arkansas State Police shall be authorized~~
17 ~~to disseminate said background information to the State Board of Private~~
18 ~~Career Education.~~ The check shall conform to the applicable federal
19 standards and shall include the taking of fingerprints.

20 (3) The applicant shall sign a release of information to the
21 board and shall be responsible to the Department of Arkansas State Police for
22 the payment of any fee associated with the criminal background check.

23 (4) Upon completion of the criminal background check, the
24 Identification Bureau of the Department of Arkansas State Police shall
25 forward all information obtained concerning the person in the commission of
26 any felony, Class A misdemeanor, or a crime involving an act of violence for
27 which a pardon has not been granted.

28
29 SECTION 13. Arkansas Code § 6-51-609 is amended by adding additional
30 subsections to read as follows:

31 (f)(1)(A) The board may issue a nonrenewable temporary license pending
32 the results of the criminal background check.

33 (B) The temporary license shall be valid for no more than
34 six (6) months.

35 (2) Upon receipt of information from the Identification Bureau
36 of the Department of Arkansas State Police that the person holding the

1 temporary license has been convicted of a felony, Class A misdemeanor, or a
 2 crime involving an act of violence for which a pardon has not been granted,
 3 the board shall immediately revoke the temporary license.

4 (g)(1) The provisions of subsection (d)(3) of this section may be
 5 waived by the board upon the request of:

6 (A) An affected applicant for licensure; or

7 (B) The person holding a license subject to revocation.

8 (2) Circumstances for which a waiver may be granted shall
 9 include, but not be limited to, the following:

10 (A) The age at which the crime was committed;

11 (B) The circumstances surrounding the crime;

12 (C) The length of time since the crime;

13 (D) Subsequent work history;

14 (E) Employment references;

15 (F) Character references; and

16 (G) Other evidence demonstrating that the applicant does
 17 not pose a threat.

18
 19 SECTION 14. Arkansas Code § 6-51-616(g) is repealed.

20 ~~(g)(1) The aggrieved party may appeal the decision of the arbitration~~
 21 ~~panel to the Pulaski County Circuit Court for review.~~

22 ~~(2) Notice of appeal must be filed within fifteen (15) days of~~
 23 ~~the decision of the arbitration panel with the Clerk of the Pulaski County~~
 24 ~~Circuit Court.~~

25
 26 SECTION 15. Arkansas Code § 6-51-617(c) is amended to read as follows:

27 (c) In resolving disputes, the arbitration panel shall:

28 ~~(1) Conduct the arbitration proceeding within fifteen (15) days~~
 29 ~~after the request, unless both of the parties agree to an extension of time;~~

30 ~~(2)(1) Be exempt from judicial redress for failure to exercise~~
 31 ~~skill or care in the performance of its duties;~~

32 (2) Be conducted pursuant to the Uniform Arbitration Act § 16-
 33 108-201 et seq.

34 ~~(3) Hear and receive evidence and examine witnesses at the~~
 35 ~~arbitration proceeding before rendering a decision. In conducting the~~
 36 ~~arbitration proceeding, the panel shall not be limited by the rules of~~

1 ~~evidence in receiving testimony relevant to the dispute;~~

2 ~~(4) Have the power to issue subpoenas for evidence and witnesses~~
 3 ~~in order to resolve the dispute before the panel; and~~

4 ~~(5) Render a binding decision upon the parties by a vote of not~~
 5 ~~less than a simple majority.~~

6
 7 SECTION 16. Arkansas Code § 6-51-618(c)(2) is amended to read as
 8 follows:

9 (2) No penalty imposed by the board may exceed ~~one thousand~~
 10 ~~dollars (\$1,000)~~ five hundred dollars (\$500) per violation.

11
 12 SECTION 17. Arkansas Code § 6-51-620(a)(1) is amended to read as
 13 follows:

14 (a)(1) Each school licensed under this subchapter shall ~~annually~~
 15 ~~submit~~ maintain a surety bond during its licensure.

16
 17 SECTION 18. Arkansas Code § 6-51-620(a)(6) is amended to read as
 18 follows:

19 (6) The board shall determine the sum of each surety bond based
 20 upon the following guidelines:

21 (A) Except as provided in subdivisions (a)(6)(B) and (C)
 22 of this section, a school shall procure and maintain a bond equal to ten
 23 percent (10%) of the gross tuition, with a minimum bond amount of five
 24 thousand dollars (\$5,000) ~~and a~~ with the maximum bond amount ~~of seventy-five~~
 25 ~~thousand dollars (\$75,000)~~ to be determined by the board.

26 (B) Schools that have no gross tuition charges assessed
 27 for the previous year shall secure and maintain a surety bond in the amount
 28 of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000).

29 (C) Schools that have a total cost per program of three
 30 thousand dollars (\$3,000) or less shall not be required to have a bond.

31
 32 SECTION 19. Arkansas Code § 6-51-620(b) and (c) are amended to read as
 33 follows:

34 (b) A surety bond is not required for licensees ~~currently~~ approved by
 35 the State Board of Private Career Education on April 10, 1995 and that
 36 maintain continuous licensure.

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~~(c) Any student of a school in violation of subdivision (a)(4) of this section may bring an action in the circuit court of the proper county to execute against the bond.~~ No right of action shall accrue on the surety bond to or for the use of any person or entity other than the obligee named in the bond or the heirs, executors, administrators, or successors of the obligee.

/s/ Agee

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