

## No. 1986-174

## AN ACT

## HB 247

Defining and providing for the licensing and regulation of private schools; establishing the State Board of Private Licensed Schools; imposing penalties; and making repeals.

## TABLE OF CONTENTS

- Section 1. Short title.
- Section 2. Definitions.
- Section 3. The State Board of Private Licensed Schools.
- Section 4. Powers and duties of board.
- Section 5. Optional licensing of private schools.
- Section 6. Mandatory licensing of private schools and admissions representatives.
- Section 7. Application for license.
- Section 8. Issuance and renewal of license.
- Section 9. Licenses restricted.
- Section 10. License fees.
- Section 11. Directory of licensed schools.
- Section 12. Requirements for licensure and operation.
- Section 13. Enforcement, refusal, suspension or revocation of license.
- Section 14. Promulgation of rules.
- Section 15. Penalties.
- Section 16. Existing licenses to remain in force.
- Section 17. Transfer of personnel, etc.
- Section 18. Repeals.
- Section 19. Effective date.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Private Licensed Schools Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Adequate correction service.” The proper receipt and prompt correction of all home-study tests and materials, with appropriate written comments and suggestions for correction of errors and apparent weaknesses, and the prompt return of the corrected materials to students concerned.

“Admissions representative.” A person acting for a private licensed school who, for a consideration, at locations off the premises of the school

solicits or procures through an enrollment agreement an individual in Pennsylvania to enroll in a private licensed school.

“Annual.” Twelve months from the date of initial licensure.

“Biennial.” Twenty-four months from the date of renewal licensure.

“Board.” The State Board of Private Licensed Schools.

“Department.” The Department of Education of the Commonwealth.

“Enrollment agreement.” A written contract between the student and the private licensed school.

“Multibranch training school.” A business corporation licensed to do business in Pennsylvania having more than one branch facility at which instruction is offered to the general public for a fee. A branch facility shall mean a facility of a licensed school when all of the following occur:

(1) The facility has the same ownership, management or control as that of the licensed school.

(2) The curriculum offered at such facility is substantially the same as the curriculum offered at the licensed school.

(3) The number of tuition-paid students enrolled at each such facility does not exceed 50 per class.

(4) The facility is located within the same county and is administratively an integral part of the licensed school. No additional license fees or bond shall be required of any such facility, provided that the physical plant of each such facility is approved by the board.

“Private licensed school.” A school or classes operated for profit or tuition that provides resident instruction to prepare an individual to pursue an occupation in the skilled trades, industry or business, or systematic instruction by correspondence or by telecommunication in a field of study. It shall not include a private academic school as defined in the act of June 25, 1947 (P.L.951, No.401), entitled, as amended, “An act defining and providing for the licensing and regulation of private academic schools; conferring powers and imposing duties on the State Board of Private Academic Schools; and imposing penalties”; a school maintained or a class conducted for training for the vocation of homemaking or to give training in public and other service occupations; a barber school; a school of cosmetology; a flight school; a private tutorial school, including, but not limited to, a school of music or dance; an institution granting a degree other than those approved to award the degree of associate in specialized business or associate in specialized technology; a school or class conducted by an employer or trade union for employees or union members where no fee or tuition is charged; a school owned and operated by a bona fide religious institution whose only purpose is the providing of religious instruction; or a school conducted by the Commonwealth or a political subdivision thereof.

“Registered school.” The official designation for an out-of-State school which has met all the requirements of the board for approval to enroll Pennsylvania residents in its resident school or home-study course.

“Secretary.” The Secretary of Education of the Commonwealth.

**Section 3. The State Board of Private Licensed Schools.**

(a) **Establishment of the board.**—There is hereby created within the department a departmental administrative board to be known as the State Board of Private Licensed Schools. The board shall consist of 15 members, 14 of whom shall be appointed by the secretary. Three members shall represent private licensed schools providing instruction in business and commercial pursuits, three members shall represent private licensed schools providing instruction in trades or technologies, three members shall represent private licensed schools providing correspondence or home-study instruction and five members shall be representative of the general public having no current affiliation with private licensed schools. The Director of the Bureau of Consumer Protection in the Office of Attorney General, or a designee, shall serve *ex officio* and shall have voting rights. Of the initial appointments, seven members, two from the business, one each from trade and correspondence school sectors and three from the public sector, shall be appointed for terms of two years. Seven members, one from the business, two each from trade and correspondence school sectors and two from the public sectors, shall be appointed for terms of four years. After the initial appointments, all terms shall be for four years or until a successor has been appointed, but in no event shall a member hold office for longer than six months beyond expiration of the term. No board member shall serve more than two consecutive four-year terms. An appointment to fill a vacancy shall be for the unexpired term.

(b) **Quorum.**—Eight members of the board shall constitute a quorum. The board shall select annually a chairperson from among its private licensed school and public members.

(c) **Administrative support.**—Administrative support for the board shall be provided by the department in accordance with section 214 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. The department should periodically consult with the board regarding its administrative needs.

(d) **Compensation and expenses.**—Members of the board, except the Director of the Bureau of Consumer Protection or a designee, shall receive \$60 per diem for each day actually devoted to work of the board. The members shall be reimbursed for reasonable travel, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(e) **Forfeiture of membership.**—A member who fails to attend three consecutive board meetings shall forfeit membership on the board unless the secretary, upon written request from the member, determines that the member should be excused from a meeting or meetings for reasons of illness or death of a family member.

(f) **Meetings and records.**—The board shall meet at such times and places as it shall determine is necessary for the proper conduct of its work. Special meetings may be called by the chairperson or at the request of a majority of the members of the board dependent upon the availability of funds to cover costs. Board records and administrative records for private licensed schools shall be maintained in Harrisburg.

(g) Documents.—Certificates of licensure and other official documents approved by the board shall be issued by the department.

**Section 4. Powers and duties of board.**

(a) Licensure, policies, etc.—The board shall have the power and its duty shall be to approve or disapprove the initial and renewal licensure or registry, or both, of schools; to suspend or revoke the licensure or registry, or both, of schools; to approve or disapprove the licensing of in-State and out-of-State admissions representatives; to establish qualifications for instructors, administrators and supervisors; to adopt broad policies and principles; and to establish standards, rules and regulations. The regulations shall provide for a method of school closure.

(b) Disposition of student records.—The board shall require every applicant for initial or renewal licensure to provide a written statement describing arrangements for disposition of student records in the event of closure. It shall be the duty of the board and the department to assist in the execution of the arrangements when necessary. Priority shall be given to plans for retention of the records with existing private licensed schools in the same geographical area.

(c) Report of complaints.—The board shall submit annually to the Education Committees of the Senate and House of Representatives a report describing the types of complaints received pertaining to private licensed schools. The report shall include the source of the complaints, the status of the complaints, board action initiated and the elapsed time from the filing of the complaints until final resolution.

(d) Statistical report.—The board shall submit annually to the Education Committees of the Senate and House of Representatives a report containing statistical data on tuition rates, job placement of graduates, percentage of students completing programs of study and the level of State support for students. Private licensed or registered schools shall submit this information to the department by September 30 of each year for the preceding academic year ending June 30.

(e) Enforcement by department.—The regulations promulgated by the board shall be enforced by the department. The department may submit to individual experts for review, programs and courses and financial statements proposed or offered by a school.

**Section 5. Optional licensing of private schools.**

A school which is not required to obtain a license may apply for a license and, upon approval and issuance of the license, shall be subject to the provisions of this act. It may voluntarily surrender its license and revert to its original status.

**Section 6. Mandatory licensing of private schools and admissions representatives.**

(a) General rule.—A private school requiring licensure shall not operate within this Commonwealth unless the school has obtained from the board a license issued in the prescribed manner and form.

(b) Admissions representatives for a new school in this Commonwealth.—Within this Commonwealth, no person or persons shall advertise in

behalf of, or solicit prospective students to enroll in, a private school to be established within this Commonwealth prior to the establishment of the school unless the person or persons shall apply to the board for a license in the prescribed manner and form and shall receive from the board authorization to conduct the activities.

(c) Admissions representatives for a new school outside this Commonwealth.—Within this Commonwealth, no person or persons shall solicit prospective students to enroll in a school to be established outside this Commonwealth prior to the establishment of the school unless the person or persons shall apply for and obtain from the board an admissions representative's license in the manner and form prescribed.

(d) Admissions representatives for an existing school.—No person or persons shall solicit any prospective student within this Commonwealth to enroll in a school located within or without this Commonwealth unless the school has been licensed or registered by the board and unless the person or persons shall apply for and obtain from the board an admissions representative's license in the prescribed manner and form.

(e) Limitation on authority of admissions representatives.—No person holding an admissions representative's license shall solicit prospective students to enroll in a private licensed school or classes other than one he is licensed to represent.

#### Section 7. Application for license.

(a) General rule.—Before any license is issued to a private school, a verified application shall be made, in writing, to the board on a form prepared and furnished by the department. The application shall require a statement showing:

(1) The title or name and address of the school or classes together with the name of the owners and controlling officers.

(2) The general and specific fields of instruction which will be offered and the purposes of such instruction.

(3) The place or places where instruction will be given or correction services provided by correspondence schools.

(4) A specific listing of the equipment and staff available for instruction in each program, and for the proper administration of correspondence courses of study and for maintenance of an adequate correction service.

(5) The maximum enrollment to be accommodated on equipment available in each program.

(6) The qualifications of instructors, administrators and supervisors in each program.

(7) Financial resources available to equip and maintain the school, classes or service.

(8) An agreement to abide by reasonable service and business ethics prescribed by the board.

(9) For relicensure, statistical data on tuition rates, job placement of graduates, percentage of students completing programs of study and the level of State support for students.

(10) Any additional information the board may deem necessary to enable it to determine the adequacy of the program of instruction, the business integrity and related matters. An application must be complete for board consideration.

(b) **Financial responsibility.**—Each private licensed or registered school shall demonstrate to the board that it has adequate resources or forms of surety available for the purpose of reimbursing unearned tuition due students whenever the licensed or registered school ceases to operate. The form of financial responsibility or surety established by the private licensed or registered school shall be subject to approval by the board. The board shall promulgate regulations under this act establishing the levels and forms of financial responsibility or surety that the private licensed or registered school is permitted to establish. Until such regulations take effect, the surety requirements in existence on the effective date of this act shall continue to be enforced.

(c) **Licensing rules.**—The board shall prescribe rules and regulations for the licensing of admissions representatives.

#### Section 8. Issuance and renewal of license.

(a) **Issuance.**—The department shall issue an original license to the applicant if the board finds that the application and the school or class or admissions representative for which a license is sought comply with the provisions of this act and with the rules and regulations promulgated under this act.

(b) **Duration and renewal.**—

(1) Each original school license issued shall be effective from the date of issue until the first day of the month of original issue the following year and shall be renewed biennially thereafter on a form prepared and furnished by the department.

(2) Each original license of an admissions representative shall be renewed annually.

(c) **License not transferable.**—Each private licensed school shall have a separate license which shall not be transferable.

#### Section 9. Licenses restricted.

Any license issued to a private school shall restrict the private licensed school to the program, courses or classes specifically indicated in the application for a license. A private licensed school shall present a required supplementary application for approval of additional programs, courses or classes in which it desires to offer instruction during the effective period of its license.

#### Section 10. License fees.

(a) **General rule.**—The department shall collect a fee for licensing a private licensed school and admissions representatives in accordance with the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. The fee for an original school license shall be \$500. The biennial school license renewal fee shall be \$800. The license fee for an admissions representative shall be \$30 and \$30 for an annual renewal. The fees imposed by this act shall remain in effect until revised by board regulations. If the revenues raised by fees, fines and civil penalties imposed under this act are not

sufficient to meet board expenditures over the two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

(b) **Multibranch training school fee.**—A multibranch training school shall pay the same fees set forth in subsection (a), except that such school shall be required to pay only one fee for any and all branch training schools located in one county.

(c) **Disposition of fees.**—License fees shall be placed in the General Fund.

(d) **Fee not refundable.**—If a license is denied, suspended or revoked, the license fee shall not be refunded. If the board determines that a license is not required, the license fee may be refunded.

#### Section 11. Directory of licensed schools.

The department shall maintain a list of private licensed schools which shall be available to the public.

#### Section 12. Requirements for licensure and operation.

(a) **Inspection.**—No private school may be granted a license or permitted to continue to operate under a granted license unless it permits the board and its representatives to inspect the school or classes and makes available to the board, at any time when requested to do so, full information pertaining to the operation of the school.

(b) **Display of license.**—The school shall prominently display on the premises the current approved license where it may be inspected by students, visitors and designated officials of the board.

(c) **Advertising.**—The advertising and representations made by any person representing the school or classes shall neither misrepresent any fact relating to the school nor mislead prospective students.

(d) **Advertisements and representations.**—

(1) A school shall not use any name, other than its licensed name, for advertising or publicity purposes. A school shall not advertise or imply that it is “supervised,” “recommended,” “endorsed,” “accredited” or “approved” by the secretary, the department or the board.

(2) A school shall not claim or imply that it is endorsed by colleges, universities or other institutions of higher learning.

(3) A school shall not claim or imply that it will guarantee admission to any educational institution or employment upon completion of its course or program.

(4) A school shall not, by means of blind advertisements or advertisements in the help wanted or other employment columns of newspapers and other publications, solicit prospective students to enroll in the school.

(e) **Condition of premises.**—The premises, equipment and conditions of the school or classes shall be adequate, safe and sanitary in accordance with standards of the Commonwealth or any of its political subdivisions that are applicable to the premises and equipment.

#### Section 13. Enforcement, refusal, suspension or revocation of license.

(a) **General rule.**—The board shall have the power to take appropriate necessary action for the enforcement of its policies, rules and regulations.

(b) Suspension and revocation of license.—The board shall have the power to refuse to issue, suspend or revoke a license if it finds that:

(1) The licensee has violated any of the provisions of this act or any of the rules and regulations of the board.

(2) The applicant or licensee has knowingly presented to the board false, incomplete or misleading information relating to licensure.

(3) The applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime constituting a misdemeanor or felony by a judge or jury in any state or Federal court.

(4) The applicant or licensee has failed or refused to permit the board or its representatives to inspect the school or classes or has failed or refused to make available to the board, at any time when requested to do so, full information pertaining to any or all items of information contained in an application for license or pertaining to the operation of the private licensed school.

(5) The applicant has failed or refused to submit to the board an application for license or renewal in the manner and form prescribed.

(6) A private licensed school has failed or refused to display on the school's premises the current approved license where it may be inspected by students, visitors or designated officials of the board.

(7) A licensed admissions representative has failed or refused to display or produce his or her license when requested to do so by prospective students or designated officials of the board.

(8) The applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary in accordance with such standards of the Commonwealth or any of its political subdivisions that are applicable to the premises and equipment.

(9) The licensee has perpetrated fraud or deceit in written or oral advertising of the school or classes or in presenting to prospective students written or oral information relating to the school or classes, employment opportunities or opportunities for enrollment in institutions of higher learning.

(10) The licensee is employing admissions representatives who have not been licensed by the board.

(11) The licensee has failed to provide and maintain adequate premises, equipment, materials or supplies or has exceeded the maximum enrollment for which the school was licensed or program or course approved.

(12) The licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or instructional staff.

(13) The applicant or licensee is unable to provide and maintain financial resources in sufficient amount to equip and maintain adequately and effectively the school or classes.

(14) The licensee has moved the school into new premises or facilities without notifying the board and before receiving approval from the board.



(15) The licensee has offered training or instruction in programs or courses which have not been approved and authorized by the board.

(16) A licensed admissions representative has solicited prospective students to enroll in a school which has not been registered or licensed by the board or which is not listed on his or her license.

(17) There was a change in the ownership of the school without notification to and approval from the board.

(18) The school was operated or conducted under an ownership arrangement not approved by the board.

(19) The licensee has had the license of a school suspended or revoked in another state.

(c) Adjudicatory procedure.—The procedure to be followed in the refusal, suspension and revocation of licenses and in appeals taken from those actions shall be in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(d) Reinstatement of license.—Unless directed to do so by court order, the board shall not, for a period of five years following revocation, reinstate the license of a private licensed school or admissions representative which has been revoked. The school or representative shall be required to reapply as a new licensee in accordance with the provisions of this act.

#### Section 14. Promulgation of rules.

The board shall promulgate rules and regulations necessary to carry out the purposes of this act. The rules and regulations of the State Board of Private Business Schools, the State Board of Private Correspondence Schools and the State Board of Private Trade Schools in force on the effective date of this act, and not countermanded by this act, shall remain in effect until repealed or amended by the board, but not for a period of more than one year.

#### Section 15. Penalties.

(a) Summary offense.—A person who violates or fails to comply with this act or a rule, regulation or standard promulgated under this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$300.

(b) Civil penalty.—In addition to any other penalty provided in this act, the board may, by a majority vote of its statutorily authorized membership, levy a civil penalty of up to \$1,000 on any licensee who violates any provision of this act or any person who operates a private licensed school without being properly licensed under this act. Prior to the collection of the penalty, the licensee or person shall have access to the hearing procedure provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

#### Section 16. Existing licenses to remain in force.

Licenses issued by the State Board of Private Business Schools, the State Board of Private Trade Schools and the State Board of Private Correspondence Schools shall remain in force for the period of the license. At the time of renewal of the license, the State Board of Private Licensed Schools may establish a staggered schedule for renewal.

**Section 17. Transfer of personnel, etc.**

Personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended by the boards hereby abolished in connection with the powers, duties or functions exercised under this act by the State Board of Private Licensed Schools are hereby transferred to the State Board of Private Licensed Schools with the same force and effect as if the appropriations had been made to, as if said items had been the property of and as if the contracts, agreements and obligations had been incurred or entered into by said State Board of Private Licensed Schools.

**Section 18. Repeals.**

The following acts and parts of acts are repealed:

Sections 456, 457, 458 and 606-A(2), (3) and (5) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Act of May 2, 1945 (P.L.401, No.165), entitled, as amended, "An act defining and providing for the licensing and regulation of private trade schools and classes; conferring powers and imposing duties on the State Board of Private Trade Schools; and prescribing penalties."

Act of July 8, 1947 (P.L.1428, No.552), entitled "An act defining and providing for the licensing and regulation of private business schools and classes and agents thereof; conferring powers and imposing duties upon the State Board of Private Business Schools; and prescribing penalties."

Act of July 8, 1947 (P.L.1433, No.553), entitled, as amended, "An act defining and providing for the licensing of private correspondence schools and the registration of agents of such schools; providing for contractual liability; conferring powers and imposing duties on the State Board of Private Correspondence Schools; and prescribing penalties."

As much as relates to the State Board of Private Business Schools and the State Board of Private Correspondence Schools in section 6(c) of the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

**Section 19. Effective date.**

This act shall take effect January 1, 1987.

APPROVED—The 15th day of December, A. D. 1986.

DICK THORNBURGH