

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 877  
HOUSE BILL 2186

AN ACT TO AMEND THE LAWS RELATING TO THE REGULATION OF  
PROPRIETARY SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-87 reads as rewritten:

**"§ 115D-87. Definitions.**

As used in this Article:

- (1) 'Correspondence school' means an educational institution privately owned and operated by an owner, partnership or corporation conducted for the purpose of providing, by correspondence, for a consideration, profit, or tuition, systematic instruction in any field or teaches or instructs in any subject area through the medium of correspondence between the ~~pupil~~-student and the school, usually through printed or typewritten matter sent by the school and written responses by the ~~pupil~~-student.
- (2) 'Persons' means any individual, association, partnership or corporation, and includes any receiver, referee, trustee, executor, or administrator as well as a natural person.
- (3) '~~Private-Proprietary~~ business school' or 'business school' ~~or 'school'~~ means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, offering and (ii) offers business and office related courses for which tuition is charged, in such subjects as typewriting, manual or machine shorthand, filing and indexing, receptionist's duties, key punch, teletype, penmanship, bookkeeping, accounting, office machines, business arithmetic, English, business letter writing, salesmanship, personality development, leadership training, public speaking, real estate, insurance, traffic management, business psychology, economics, business management, subjects of a similar character business or office related subjects or subjects of general education when they contribute value to the objective of the course of study. ~~Classes in any of the subjects herein referred to which are taught or coached in homes or elsewhere to five or less students are not included in the term "school" and shall be exempt from the requirements of this Article. If a school offers classes in more than one county, the school's operations~~

in each such county shall constitute a separate school, as defined in this subdivision.

- (4) 'Private-Proprietary trade school' or 'trade school' means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, offering and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any trade, technical, mechanical or industrial occupation or teaching any or several of the subjects needed to train youths or adults in the skills, technical knowledge, knowledge and subjects, related industrial information, and job judgment, necessary for success in one or more skilled trades, industrial occupations or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.
- (5) 'Proprietary technical school', 'technical school', 'proprietary technical institute', or 'technical institute' means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any technical occupation or teaching any or several of the subjects needed to train youths or adults in the skills, technical knowledge and subjects, related information, and job judgment, necessary for success in one or more technical or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.'

Sec. 2. G.S. 115D-88 reads as rewritten:

**"§ 115D-88. Exemptions.**

It is the purpose of this Article to include all private schools operated for profit: Provided, that the following schools shall be exempt from the provisions of this Article:

- (1) Nonprofit schools conducted by bona fide eleemosynary or religious institutions.
- (2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is ~~charged~~ charged to the student.
- (3) Courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit.
- (4) Any school for which there is another legally existing licensing or approving board or agency in this State.
- (4a) Classes or schools that are equipment-specific to purchasers, users, classes, or schools offering training or instruction to acquaint purchasers or users with equipment capabilities.
- (4b) Classes or schools that are taught or coached in homes or elsewhere to five or fewer students.
- (4c) Classes or schools that the State Board, acting by and through the President of the Community College System, determines are

avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals.

- (5) Any established university, professional, or liberal arts college, public or private ~~high school approved by the Department of Public Instruction,~~ regulated or recognized pursuant to Chapter 115C of the General Statutes or by any other State Agency, or any State institution which has heretofore offered, or which may hereinafter offer one or more courses covered in this Article: Provided, that the tuition fees and charges, if any, made by such university, college, high school, or State institution shall be collected by their regular officers in accordance with the rules ~~and regulations~~ prescribed by the board of trustees or governing body of such university, college, high school, or State institution; but provisions of the Article shall apply to all business schools, proprietary trade schools, proprietary technical schools, or correspondence schools ~~or branch schools,~~ as defined in this Article, and operated within the State of North Carolina as such institutions, except schools for which there are other legally existing licensing boards or agencies."

Sec. 3. G.S. 115D-89 reads as rewritten:

**"§ 115D-89. State Board of Community Colleges to administer Article; issuance of diplomas by schools; investigation and inspection; ~~regulations and standards.~~ rules.**

(a) The State Board of Community Colleges, acting by and through the President of the ~~Department of Community Colleges, Community College System,~~ shall have authority to administer and enforce this Article and to grant and issue licenses to ~~private schools and educational institutions, as the same are defined herein,~~ proprietary business schools, proprietary trade schools, proprietary technical schools, and correspondence schools, whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

(b) Any such ~~private school or educational institution~~ proprietary business school, proprietary trade school, proprietary technical school, or correspondence school, may by and with the approval of the State Board issue certificates and diplomas.

(c) The State Board, acting by and through the President of the ~~Department of Community Colleges, Community College System,~~ shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the Board, maintain a list of schools approved under the provisions of this Article which list shall be available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools ~~or branch schools~~—and by inspections made by authorized

representatives of the State Board of Community Colleges, the State Board of Community Colleges shall have general supervision over business, ~~trade-trade,~~ technical, and correspondence schools in the State, the object of said supervision being to protect the health, safety and welfare of the public by having the licensed business, ~~trade-trade,~~ technical, and correspondence schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching and administrative staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end the State Board of Community Colleges is authorized to issue such ~~regulations and standards~~ rules not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

The State Board, acting by and through the President of the Community College System, may request any occupational licensing or approving board or agency in this State to adopt rules requiring the approval of that board or agency for a course of study. Under these rules, the board or agency shall pass on the adequacy of equipment, curricula, and instructional personnel. The State Board of Community Colleges may deny approval to a course of study that is not approved by such board or agency."

Sec. 4. G.S. 115D-90 reads as rewritten:

**"§ 115D-90. License required; application for license; school bulletins; requirements for issuance of license; license restricted to courses indicated; supplementary applications.**

(a) No person shall operate, conduct or maintain or offer to operate in this State a ~~private school or educational institution as defined herein~~ proprietary trade school, proprietary technical school, proprietary business school, or correspondence school, unless a license is first secured from the State Board of Community Colleges ~~issued granted~~ in accordance with the provisions of this Article and the rules and regulations promulgated adopted by the Board under the authority of G.S. ~~115C-570-115D-89~~. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each ~~private school~~ approved.

(b) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the President of the ~~Department of Community Colleges~~ Community College System for that purpose. Such application shall be signed by the applicant and properly verified and shall contain such of the following information as may apply to the particular school ~~or branch school,~~ for which a license is sought:

- (1) The title or name of the school or classes, together with the name and address of the owners and of the controlling officers thereof.
- (2) The general field of instruction.
- (3) The place or places where such instruction will be given.
- (4) A specific listing of the equipment available for instruction in each field.
- (5) The qualifications of instructors and supervisors.
- (6) Financial resources available to equip and to maintain the school or classes.

- (7) Such additional information as the State ~~Board~~ Board, acting by and through the President of the Community College System, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being ~~true~~ current, true, and correct in content and policy. The school bulletin shall contain the following information:
- a. Identifying data, such as volume number and date of publication.
  - b. Names of the institution and its governing body, officials and faculty.
  - c. A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term or semester, and other important dates.
  - d. Institution's policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.
  - e. Institution's policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.
  - f. Institution's policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution; the minimum grades considered satisfactory; conditions for interruption for unsatisfactory grades or progress and description of the probationary period, if any, allowed by the institution; and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student.
  - g. Institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.
  - h. Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.
  - i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom.
  - j. A description of the available space, facilities and equipment.
  - k. A course outline for each course for which approval is requested, ~~showing~~ showing:
    1. ~~subjects~~ Subjects or units in the course,

2. ~~type~~ Type of skill or skill to be learned, and
3. ~~approximate time and~~ Approximate (i) time; (ii) clock hours—hours, and (iii) credit hours or credit hours equivalent, as appropriate, to be spent on each subject or unit.

1. Policy and regulations of the institution relative to granting credit for previous educational training.

(c) After due investigation and consideration on the part of the State Board Board, acting by and through the President of the Community College System, as provided herein, a license shall be ~~issued~~ granted to the applicant when it is shown to the satisfaction of said Board that said applicant, school, programs of study or courses are found to have met the following criteria:

- (1) The courses, curriculum and instruction are consistent in quality, content and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.
- (2) There is in the institution adequate space, equipment, instructional material and instructor personnel to provide training of good quality.
- (3) Education and experience qualifications of director, administrators and instructors are adequate.
- (4) The institution maintains a written record of the previous education and training of the student.
- (5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to absences, grading policy and rules of operation and conduct will be furnished the student upon enrollment.
- (6) Upon completion of training, the student is given a certificate or diploma by the institution indicating the approved course or subjects and indicating that training was satisfactorily completed.
- (7) Adequate records as prescribed by the State Board of Community ~~Colleges—Colleges,~~ Colleges, acting by and through the President of the Community College System, are kept to show attendance and progress or grades and satisfactory standards relating to attendance, progress and conduct are enforced.
- (8) The school complies with all local, city, county, municipal, State and federal regulations, such as fire codes, building and sanitation codes. The State Board of Community Colleges may require such evidence of compliance as is deemed necessary.
- (9) The school is financially sound and capable of fulfilling its commitments for training.
- (10) The school does not exceed its enrollment limitation as established by the State Board of Community Colleges.
- (11) The school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission or intimation.
- (12) The school's administrators, directors, owners and instructors are of good reputation and character.

(13) Such additional criteria as may be deemed necessary by the State Board.

(d) Any license issued shall be restricted to the programs of instruction or courses or subjects specifically indicated in the application for a license. The holder of a license shall present a supplementary application as may be directed by the President of the ~~Department of Community Colleges~~ Community College System for approval of additional programs of ~~instruction or courses~~ instruction, courses, or subjects, in which it is desired to offer instruction during the effective period of the license."

Sec. 5. G.S. 115D-91 reads as rewritten:

**"§ 115D-91. Duration and renewal of licenses; notice of change of ownership, administration, etc.; license not transferable.**

(a) All licenses issued shall expire on June 30 next following the date of issuance.

(b) Licenses shall be renewable annually on July 1: Provided, an application for the renewal of the license has been filed in the form and manner prescribed by the State ~~Board~~ Board, acting by and through the President of the Community College System, and the renewal fee has been paid: Provided, further that the school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license.

(c) After a license is ~~issued~~ granted to any school by the State Board of Community Colleges on the basis of its application, it shall be the responsibility of said school to notify immediately said Board of any changes in the ownership, administration, location, faculty, the instructional program or other changes as may affect significantly the course of instruction offered.

(d) In the event of the sale of such school, the license already granted to the original owner or operators thereof shall not be transferable to the new ownership or operators. Provided, however, the President of the Community College System may issue a 90-day, temporary operating license to a school upon its sale if the school held a valid, current license prior to the sale, and if the President finds that the school is likely to qualify after the sale for a license under this Article."

Sec. 6. G.S. 115D-92 reads as rewritten:

**"§ 115D-92. Authority to establish fees; Commercial Education Fund established; refund of fees.**

The State Board of Community Colleges shall establish reasonable fees for licenses, renewals, and approvals granted, and for inspections performed pursuant to this Article.

The fees and licenses collected under this section shall be placed in a special fund to be designated the 'Commercial Education Fund' and shall be used under the supervision and direction of the State Board of Community Colleges for the administration of this Article. No license fee shall be refunded in the event the application is rejected or the license suspended or revoked."

Sec. 7. G.S. 115D-93 reads as rewritten:

**"§ 115D-93. Suspension, revocation or refusal of license; notice and hearing; judicial review; grounds.**

(a) A refusal to issue, refusal to renew, suspension of, or revocation of a license under this section shall be made in accordance with Chapter 150B of the General Statutes.

(b) A decision under this section to refuse to grant, refuse to renew, suspend, or revoke a license is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.

(c) The State Board, acting by and through the President of the ~~Department of Community Colleges, Community College System,~~ shall have the power to refuse to issue or renew any such license and to suspend or revoke any such license theretofore issued in case it finds one or more of the following:

- (1) That the applicant for or holder of such a license has violated any of the provisions of this Article or any of the rules ~~and regulations~~ promulgated thereunder.
- (2) That the applicant for or holder of such a license has knowingly presented to the State Board of Community Colleges false or misleading information relating to ~~approval.~~ approval or license.
- (3) That the applicant for or holder of such a license has failed or refused to permit authorized representatives of the State Board of Community Colleges to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the State Board of Community Colleges under the provisions of this Article.
- (4) That the applicant for or holder of such a license has perpetrated or committed fraud or deceit in advertising the school or in presenting to the prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school.
- (5) That the applicant or licensee has pleaded guilty, entered a plea of **nolo contendere** or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.
- (6) That 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 State of North Carolina or any of its political subdivisions, as are applicable to such premises and equipment.
- (7) That the licensee is employing teachers, supervisors or administrators who have not been approved by the State ~~Board.~~ Board, acting by and through the President of the Community College System.
- (8) That the licensee has failed to provide and maintain adequate premises, equipment, materials or supplies, or has exceeded the maximum enrollment for which the school or class was licensed.

- (9) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff."

Sec. 8. G.S. 115D-96 reads as rewritten:

**"§ 115D-96. Operating school without license or bond made misdemeanor.**

Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a proprietary business school, a proprietary technical school, a proprietary trade school—~~school~~, or a correspondence school, ~~or branch school as defined in this Article~~, without first having obtained the license herein required, and without first having executed the bond required, shall be guilty of a misdemeanor and be punishable by a fine of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) or 30 days imprisonment, or both, at the discretion of the court, and each day said school continues to be open and operated shall constitute a separate offense."

Sec. 9. G.S. 115D-97 reads as rewritten:

**"§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made null and void.**

All contracts entered into by proprietary business, ~~trade~~—proprietary technical, proprietary trade, or correspondence schools, ~~or branch school, as defined in this Article~~, with students or prospective students, and all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such schools shall be null and void unless such schools are duly licensed as required by this Article."

Sec. 10. This act shall become effective October 1, 1990.

In the General Assembly read three times and ratified this the 9th day of July, 1990.