

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 104

(By Mr. McKOWN and Mr. HUBBARD)

PASSED FEBRUARY 24, 1971

In Effect FROM Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-4-76

104

ENROLLED

Senate Bill No. 104

(By MR. MCKOWN and MR. HUBBARD)

[Passed February 24, 1971; in effect from passage.]

AN ACT to amend and reenact section ten, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to correspondence, business, occupational and trade schools inside and outside this state; requiring permits in connection therewith; providing certain exemptions from the permit requirements; providing that the West Virginia board of education may refuse the granting of such exemptions; providing for annual reports to the West Virginia board of education by correspondence, business, occupational and trade schools located in this state; providing that permits shall be valid for one year; providing for the issuance

of permits upon the furnishing of a surety bond; providing for the revocation of a permit for the failure of a school to fulfill its contract with one or more students, or for violation or failure to comply with any provisions of law or with any regulations of the West Virginia board of education; providing that a permit is not approval or accreditation of course or school; prohibiting actions by any such school to recover for services where there was no valid permit; authorizing enforcement by attorney general or prosecuting attorney; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That section ten, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-10. Permits required for certain correspondence, business, occupational and trade schools; reports, issuance, renewal and revocation of permits; penalty and enforcement.

- 1 Except for persons representing correspondence, occu-
- 2 pational and trade schools that are members of nationally

3 recognized accrediting associations approved by the West
4 Virginia board of education, and for persons representing
5 business schools that are members of the West Virginia
6 association of business schools and are also members of
7 the national association and council of business schools,
8 it shall be unlawful for any person representing a corre-
9 spondence, business, occupational or trade school inside
10 or outside this state to solicit, sell or offer to sell courses
11 of instruction to any resident of this state for considera-
12 tion or remuneration unless he first obtains a permit from
13 the West Virginia board of education in the manner and
14 on the terms herein prescribed.

15 All schools whose representatives are exempted from
16 the requirement of a permit under this section shall, be-
17 fore recruiting any students in West Virginia, secure
18 authorization from the state board of education. The board
19 may refuse authorization to any such school, regardless of
20 that school's membership in any accrediting association, if
21 the board has reason to believe that the school engages in
22 practices which are inconsistent with this section or with
23 rules and regulations issued pursuant thereto.

24 All correspondence, business, occupational and trade
25 schools located in this state, including those schools
26 whose representatives are not required to secure permits
27 under this section, shall make annual reports to the state
28 board of education, on forms furnished by the board, pro-
29 viding such appropriate information as the board reason-
30 ably may require.

31 The application for a permit shall be made on forms to
32 be furnished by the board. The application shall be
33 accompanied by a fee of five dollars and by a surety bond
34 in the penal sum of one thousand dollars. Such bond may
35 be continuous and shall be conditioned to provide in-
36 demnification to any student suffering loss as a result of
37 any fraud or misrepresentation used in procuring his
38 enrollment. The bond may be given by the representative
39 of a school or by the school itself as a blanket bond
40 covering all of its representatives in the amount of one
41 thousand dollars each. The surety on any such bond may
42 cancel the same upon giving thirty days' notice in writing
43 to the principal on said bond and to the state board of
44 education and thereafter shall be relieved of liability for

45 any breach of condition occurring after the effective date
46 of said cancellation.

47 A permit shall be valid for one year from the date on
48 which it is issued, and, upon application, accompanied by
49 a fee of five dollars and the surety bond as herein re-
50 quired, may be renewed if a continuous bond has not
51 been furnished.

52 All fees collected for the issuance or renewal of such
53 permits shall be deposited in the state treasury to the
54 credit of the general school fund.

55 The state board of education may issue a permit to any
56 school representative who shall furnish the surety bond
57 required herein and who shall furnish proof satisfactory
58 to the board that he is of good moral character and that
59 the school he represents has a good reputation for honesty
60 and integrity in prior education transactions.

61 A permit issued hereunder, upon fifteen days' notice
62 and after a hearing if a hearing is requested by the permit
63 holder, may be revoked by the board of education for
64 fraud or misrepresentation in soliciting or enrolling
65 students, for failure of the school to fulfill its contract

66 with one or more students who are residents of West
67 Virginia, or for violation of or failure to comply with any
68 provision of this section or with any regulation of the
69 state board of education.

70 The issuance of a permit pursuant to this section does
71 not constitute approval or accreditation of any course
72 or school. No school nor any representative of a school
73 shall make any representation stating, inserting or imply-
74 ing that a permit issued pursuant to this section con-
75 stitutes approval or accreditation by the state of West
76 Virginia, state board of education or any other depart-
77 ment or agency of the state.

78 The state board of education is hereby authorized to
79 adopt rules and regulations for the administration and
80 enforcement of the provisions of this section, and to
81 establish an advisory committee of not more than five
82 owners or other representatives of privately owned cor-
83 respondence, business, occupational and trade schools.

84 Any person violating any provision of this section shall
85 be guilty of a misdemeanor, and, upon conviction thereof,
86 shall be fined not more than two hundred dollars, or

87 imprisoned in the county jail not more than sixty days,
88 or both fined and imprisoned. No correspondence, busi-
89 ness, occupational or trade school shall maintain an action
90 in any court of this state to recover for services rendered
91 pursuant to a contract solicited by the school's repre-
92 sentative if the representative is required under this sec-
93 tion to obtain a permit and did not hold a valid permit at
94 the time the contract was signed by any of the parties
95 thereto. The attorney general or any county prosecuting
96 attorney, at the request of the state board of education or
97 upon his own motion, may bring any appropriate action
98 or proceeding in any court of competent jurisdiction for
99 the enforcement of the provisions of this section relating
100 to permits, bonds and sureties.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell M. Beane
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard Myers
Clerk of the Senate

Car Blankenship
Clerk of the House of Delegates

E. M. Court
President of the Senate

Lee F. Bouarsky
Speaker House of Delegates

The within *approved* this the *3rd*
day of *March*, 1971.

Arba Shaver Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 2/26/71
Time 1:20 p.m.

RECEIVED

MAR 4 9 00 AM '71

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA