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 3-4-71
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 viola-
tion 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 prose-
cutting 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, re-
newal and revocation of permits; penalty and en-
forcement.

1 Except for persons representing correspondence, occu-
2 pational and trade schools that are members of nationally
recognized accrediting associations approved by the West Virginia board of education, and for persons representing business schools that are members of the West Virginia association of business schools and are also members of the national association and council of business schools, it shall be unlawful for any person representing a correspondence, business, occupational or trade school inside or outside this state to solicit, sell or offer to sell courses of instruction to any resident of this state for consideration or remuneration unless he first obtains a permit from the West Virginia board of education in the manner and on the terms herein prescribed.

All schools whose representatives are exempted from the requirement of a permit under this section shall, before recruiting any students in West Virginia, secure authorization from the state board of education. The board may refuse authorization to any such school, regardless of that school's membership in any accrediting association, if the board has reason to believe that the school engages in practices which are inconsistent with this section or with rules and regulations issued pursuant thereto.
All correspondence, business, occupational and trade schools located in this state, including those schools whose representatives are not required to secure permits under this section, shall make annual reports to the state board of education, on forms furnished by the board, providing such appropriate information as the board reasonably may require.

The application for a permit shall be made on forms to be furnished by the board. The application shall be accompanied by a fee of five dollars and by a surety bond in the penal sum of one thousand dollars. Such bond may be continuous and shall be conditioned to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation used in procuring his enrollment. The bond may be given by the representative of a school or by the school itself as a blanket bond covering all of its representatives in the amount of one thousand dollars each. The surety on any such bond may cancel the same upon giving thirty days' notice in writing to the principal on said bond and to the state board of education and thereafter shall be relieved of liability for
any breach of condition occurring after the effective date
of said cancellation.

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

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

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

A permit issued hereunder, upon fifteen days' notice
and after a hearing if a hearing is requested by the permit
holder, may be revoked by the board of education for
fraud or misrepresentation in soliciting or enrolling
students, for failure of the school to fulfill its contract
with one or more students who are residents of West Virginia, or for violation of or failure to comply with any provision of this section or with any regulation of the state board of education.

The issuance of a permit pursuant to this section does not constitute approval or accreditation of any course or school. No school nor any representative of a school shall make any representation stating, inserting or implying that a permit issued pursuant to this section constitutes approval or accreditation by the state of West Virginia, state board of education or any other department or agency of the state.

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

Any person violating any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two hundred dollars, or
imprisoned in the county jail not more than sixty days, or both fined and imprisoned. No correspondence, business, occupational or trade school shall maintain an action in any court of this state to recover for services rendered pursuant to a contract solicited by the school's representative if the representative is required under this section to obtain a permit and did not hold a valid permit at the time the contract was signed by any of the parties thereto. The attorney general or any county prosecuting attorney, at the request of the state board of education or upon his own motion, may bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of the provisions of this section relating to permits, bonds and sureties.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

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