

No. 444

APPROVED AND SIGNED BY THE GOVERNOR

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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

Committee Substitute for

SENATE BILL NO. 444

(By Mr. *McGraw, Mr. Proch, et al.*)



PASSED *March 7,* 1983

In Effect *ninty days from* Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 444

(MR. MCGRAW, MR. PRESIDENT, AND MR. HECK, *original sponsors*)

[Passed March 7, 1983; in effect ninety days 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 permits required for correspondence, business, occupational and trade schools; providing for the application for, purpose, issuance, renewal and revocation of permits; increasing the surety bond and providing a fee for solicitors; requiring certain reports; authorizing rules and regulations including evaluations; providing for enforcement; and increasing the penalty.

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. BOARD OF EDUCATION.

§18-2-10. Permits required for correspondence, business, occupational and trade schools; surety bonds and fees; issuance, renewal and revocation of permit; reports; rules and regulations; penalty and enforcement.

1 It shall be unlawful for any person representing a
2 correspondence, business, occupational or trade school
3 inside or outside this state to solicit, sell or offer to sell
4 courses of instruction to any resident of this state for

5 consideration or remuneration unless the school first
6 obtains a permit from the West Virginia board of educa-
7 tion in the manner and on the terms herein prescribed.

8 The application for a permit shall be made on forms to
9 be furnished by the board. The application shall be ac-
10 companied by a surety bond in the penal sum of twenty-
11 five thousand dollars and by a fee of ten dollars. The
12 bond may be continuous and shall be conditioned to
13 provide indemnification to any student suffering loss as
14 a result of any fraud or misrepresentation used in pro-
15 curing his enrollment or failure of the school to meet
16 contractual obligations. The bond shall be given by the
17 school itself as a blanket bond covering all of its represen-
18 tatives. The surety on any such bond may cancel the
19 same upon giving thirty days' notice in writing to the
20 principal on said bond and to the state board of education
21 and thereafter shall be relieved of liability for any breach
22 of condition occurring after the effective date of said
23 cancellation. The ten dollar fee will entitle o school to
24 register up to two individual solicitors. Additional solici-
25 tors may be registered by paying a five dollar fee for
26 each registration submitted.

27 A permit shall be valid for one year corresponding to
28 the effective date of the bond and, upon application,
29 accompanied by the required fee and the surety bond
30 as herein required, may be renewed. All fees collected
31 for the issuance or renewal of such permit shall be de-
32 posited in the state treasury to the credit of the general
33 school fund.

34 The board may refuse a permit to any school if the
35 board finds that the school engages in practices which
36 are inconsistent with this section or with rules and
37 regulations issued pursuant thereto. A permit issued
38 hereunder, upon fifteen days' notice and after a hearing,
39 if a hearing is requested by the school, may be suspended
40 or revoked by the board of education for fraud or mis-
41 representation in soliciting or enrolling students, for
42 failure of the school to fulfill its contract with one or
43 more students who are residents of West Virginia, or
44 for violation of or failure to comply with any provision

45 of this section or with any regulation of the state board
46 of education pertinent thereto. Any refusal, suspension
47 or revocation of a permit, or any other adverse action
48 against a school, shall comply with all constitutional pro-
49 visions, including due process, relating to the protection
50 of property rights.

51 All correspondence, business, occupational or trade
52 schools which have been issued a permit shall make an-
53 nual reports to the state board of education, on forms
54 furnished by the board, providing such appropriate in-
55 formation as the board reasonably may require. All cor-
56 respondence, business, occupational or trade schools which
57 have been issued a permit shall furnish to the West Vir-
58 ginia board of education a list of its official representa-
59 tives. Each school shall be issued a certificate of identi-
60 fication by the state board of education for each of its
61 official representatives.

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

70 The state board of education is hereby authorized to
71 adopt rules and regulations for evaluation of schools,
72 for the administration and enforcement of the provisions
73 of this section, and to establish an advisory committee
74 of not less than five owners or other representatives of
75 privately owned correspondence, business, occupational
76 and trade schools. Correspondence, business, occupational
77 and trade schools which have their home office in West
78 Virginia and which are fully accredited members of
79 nationally recognized accrediting associations approved by
80 the West Virginia board of education shall be exempted
81 from any rules and regulations for evaluation of schools
82 by the state board as authorized by this section.

83 A representative of any school violating any provision
84 of this section shall be guilty of a misdemeanor, and, upon

85 conviction thereof, shall be fined not more than two
86 hundred dollars per day of violation, not to exceed a
87 maximum of two thousand dollars per violation, or im-
88 prisoned in the county jail not more than sixty days, or
89 both fined and imprisoned. No correspondence, business,
90 occupational or trade school shall maintain an action in
91 any court of this state to recover for services rendered
92 pursuant to a contract solicited by the school if the school
93 did not hold a valid permit at the time the contract was
94 signed by any of the parties thereto. The attorney general
95 or any county prosecuting attorney, at the request of the
96 state board of education or upon his own motion, may
97 bring any appropriate action or proceeding in any court
98 of competent jurisdiction for the enforcement of the pro-
99 visions of this section relating to permits, bonds and
100 sureties.

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

James L. Davis
Chairman Senate Committee

Arnold Crowl
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Ford C. Willis
Clerk of the Senate

Donald L. Dugg
Clerk of the House of Delegates

Walter R. Upshaw
President of the Senate

W. W. M. See, Jr.
Speaker House of Delegates

The within is approved this the 26
day of March, 1983.

John D. Raley
Governor

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SECY. OF STATE