

BILL ANALYSIS

Senate Research Center
79R271 KEL-D

H.B. 1173
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Education
5/18/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Some individuals may obtain a degree from an institution not knowing that the degree and institution are not accredited; others may knowingly purchase and use a fraudulent or substandard degree for personal gain.

H.B. 1173 establishes that knowingly offering, receiving, or using for personal gain a degree that is fraudulent or substandard is illegal and establishes criminal penalties. H.B. 1173 states that the violation of this Act falls under the Deceptive Trade Practices Act.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 2 (Section 61.3021, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 61.302, Education Code, by adding Subdivision (11), to define "fraudulent or substandard degree."

SECTION 2. Amends Subchapter G, Chapter 61, Education Code, by adding Section 61.3021, as follows:

Sec. 61.3021. REVIEW OF DEGREE NOT OTHERWISE REGULATED BY SUBCHAPTER. (a) Requires Texas Higher education Coordinating Board (board) by rule to establish a process for reviewing and approving a degree conferred by a person described by Section 61.302(11)(B) or (C). Requires the review process to include a determination by the board whether the degree is the equivalent of a degree granted by a private postsecondary educational institution or other person in accordance with the person's accreditation by a recognized accrediting agency or with the person's certificate of authority under this subchapter.

(b) Authorizes the board to charge an applicant for review under this section a fee in an amount the board determines will cover the cost of conducting the review.

SECTION 3. Amends Section 61.304, Education Code, as follows:

Sec. 61.304. New heading: REQUISITE AUTHORITY TO GRANT DEGREES AND OFFER COURSES; OFFENSES. (a) Prohibits a person from granting or awarding a degree or offer to grant or award a degree on behalf of a certain institution unless certain certification has been issued.

(b) Creates this subsection from existing text.

(c) Creates this subsection from existing text.

(d) Provides that a person commits an offense if the person takes certain actions.

(e) Provides that an offense under Subsection (d) is a class A misdemeanor.

(f) Provides that in addition to any other venue authorized by law, venue for the prosecution of an offense under Subsection (d) is in the county which an element of the offense occurs or in Travis County.

SECTION 4. Amends Section 61.312, Education Code, as follows:

Sec. 61.312. HONORARY DEGREES; OFFENSES. (a) Provides that no person is authorized to award or offer to award an honorary degree on behalf of a private postsecondary educational institution subject to the provisions of this subchapter unless the institution has been issued a certificate of authority to award such a degree.

(b) Provides that a person commits an offense if the person takes certain actions.

(c) Provides that an offense under Subsection (b) is a Class A misdemeanor.

(d) Provides that in addition to any other venue authorized by law, venue for the prosecution of an offense under Subsection (b) is in the county which an element of the offense occurs or in Travis County.

SECTION 5. Amends the heading to Section 61.313, Education Code, to read as follows:

Sec. 61.313. USE OF PROTECTED TERM IN NAME OF INSTITUTION; OFFENSES.

SECTION 6. Amends Section 61.313, Education Code, by adding Subsections (h), (i), and (j), as follows:

(h) Provides that a person commits an offense if the person takes certain actions.

(i) Provides that an offense under Subsection (h) is a Class A misdemeanor.

(j) Provides that in addition to any other venue authorized by law, venue for the prosecution of an offense under Subsection (h) is in the county in which an element of the offense occurs or in Travis County.

SECTION 7. Amends Subchapter G, Chapter 61, Education Code, by adding Sections 61.320 and 61.321, as follows:

Sec. 61.320. APPLICATION OF DECEPTIVE TRADE PRACTICES ACT. (a) Provides that a person who violates this subchapter commits a false, misleading, or deceptive act or practice within the meaning of Section 17.46 (Deceptive Trade Practices Unlawful), Business & Commerce Code.

(b) Authorizes a public or private right or remedy under Chapter 17 (Deceptive Trade Practices Unlawful), Business & Commerce Code, to be used to enforce this subchapter.

Sec. 61.321. INFORMATION PROVIDED TO PROTECT PUBLIC FROM FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREES. Requires the board, to protect the public from private postsecondary educational institutions or other persons that confer or offer to confer fraudulent or substandard degrees and from persons that use or hold fraudulent or substandard degrees or that use or claim to hold fictitious degrees, to disseminate certain information through the board's Internet website.

SECTION 8. Amends Subchapter D, Chapter 32, Penal Code, by adding Section 32.52, as follows:

Sec. 32.52. FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREE. (a) Defines "fraudulent or substandard degree."

(b) Provides that a person commits an offense if the person takes certain actions.

(c) Provides that an offense under this section is a Class B misdemeanor.

(d) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law to be prosecuted under this section or the other law.

SECTION 9. Amends Chapter 13, Code of Criminal Procedure, by adding Article 13.30, as follows:

Art. 13.30. FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREE.
Authorizes an offense under Section 32.52, Penal Code, to be prosecuted in the county in which an element of the offense occurs or in Travis County.

SECTION 10. Effective date: September 1, 2005.