

By: Brown of Brazos

H.B. No. 1173

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of the use of postsecondary credits and  
3 degrees, persons offering or granting certain postsecondary  
4 credits and degrees, and the manner of offering or granting those  
5 credits and degrees; providing criminal penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 61.302, Education Code, is amended by  
8 adding Subdivision (11) to read as follows:

9 (11) "Fraudulent or substandard degree" means:

10 (A) a degree conferred by a private postsecondary  
11 educational institution or other person that, at the time the  
12 degree was conferred, was operating in this state in violation of  
13 this subchapter;

14 (B) if the degree is not approved through the  
15 review process described by Section 61.3021, a degree conferred by  
16 a private educational institution or other person that, at the time  
17 the degree was conferred, was not eligible to receive a certificate  
18 of authority under this subchapter and was operating in another  
19 state:

20 (i) in violation of a law regulating the  
21 conferral of degrees in that state or in the state in which the  
22 degree recipient was residing; or

23 (ii) without accreditation by a recognized  
24 accrediting agency; or

1           (C) if conferred by a private educational  
2 institution or other person not described by Paragraph (A) or (B),  
3 including a private educational institution or other person that,  
4 at the time the degree was conferred, was not eligible to receive a  
5 certificate of authority under this subchapter and was operating  
6 outside the United States, a degree that the board, through the  
7 review process described by Section 61.3021, determines is not the  
8 equivalent of an accredited or authorized degree as described by  
9 that section.

10           SECTION 2. Subchapter G, Chapter 61, Education Code, is  
11 amended by adding Section 61.3021 to read as follows:

12           Sec. 61.3021. REVIEW OF DEGREE NOT OTHERWISE REGULATED BY  
13 SUBCHAPTER. (a) The board by rule shall establish a process for  
14 reviewing and approving a degree conferred by a person described by  
15 Section 61.302(11)(B) or (C). The review process must include a  
16 determination by the board whether the degree is the equivalent of a  
17 degree granted by a private postsecondary educational institution  
18 or other person in accordance with the person's accreditation by a  
19 recognized accrediting agency or with the person's certificate of  
20 authority under this subchapter.

21           (b) The board may charge an applicant for a review under  
22 this section a fee in an amount the board determines will cover the  
23 cost of conducting the review.

24           SECTION 3. Section 61.304, Education Code, is amended to  
25 read as follows:

26           Sec. 61.304. REQUISITE AUTHORITY TO GRANT DEGREES AND OFFER  
27 COURSES; OFFENSES. (a) A person may not grant or award a degree or

1 offer to grant or award a degree on behalf of a private  
2 postsecondary educational institution unless the institution has  
3 been issued a certificate of authority to grant the degree by the  
4 board in accordance with the provisions of this subchapter.

5 (b) A person may not represent that credits earned or granted  
6 by that person or institution are applicable for credit toward a  
7 degree to be granted by some other person or institution except  
8 under conditions and in a manner specified and approved by the  
9 board.

10 (c) The board is empowered to specify and regulate the  
11 manner, condition, and language used by an institution or person or  
12 agents thereof in making known that the person or institution holds  
13 a certificate of authority and the interpretation of the  
14 significance of such certificate.

15 (d) A person commits an offense if the person:

16 (1) grants or awards a degree or offers to grant or  
17 award a degree in violation of this section;

18 (2) represents in violation of this section that a  
19 credit earned or granted by the person can be applied toward a  
20 degree offered by another person;

21 (3) grants or offers to grant a credit for which a  
22 representation is made as described by Subdivision (2); or

23 (4) solicits another person to seek a degree or to earn  
24 a credit the actor knows is offered in violation of this section.

25 (e) An offense under Subsection (d) is a Class A  
26 misdemeanor.

27 (f) In addition to any other venue authorized by law, venue

1 for the prosecution of an offense under Subsection (d) is in the  
2 county in which an element of the offense occurs or in Travis  
3 County.

4 SECTION 4. Section 61.312, Education Code, is amended to  
5 read as follows:

6 Sec. 61.312. HONORARY DEGREES; OFFENSES. (a) No person may  
7 award or offer to award an honorary degree on behalf of a private  
8 postsecondary educational institution subject to the provisions of  
9 this subchapter unless the institution has been issued a  
10 certificate of authority to award such a degree. The honorary  
11 degree shall plainly state on its face that it is honorary.

12 (b) A person commits an offense if the person:

13 (1) grants or offers to grant an honorary degree in  
14 violation of this section; or

15 (2) solicits another person to seek or accept an  
16 honorary degree the actor knows is offered in violation of this  
17 section.

18 (c) An offense under Subsection (b) is a Class A  
19 misdemeanor.

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

24 SECTION 5. The heading to Section 61.313, Education Code,  
25 is amended to read as follows:

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

1 SECTION 6. Section 61.313, Education Code, is amended by  
2 adding Subsections (h), (i), and (j) to read as follows:

3 (h) A person commits an offense if the person:

4 (1) uses a term in violation of this section; or

5 (2) solicits another person to seek a degree or to earn  
6 a credit the actor knows is offered by an institution or  
7 establishment that is using a term in violation of this section.

8 (i) An offense under Subsection (h) is a Class A  
9 misdemeanor.

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

14 SECTION 7. Subchapter G, Chapter 61, Education Code, is  
15 amended by adding Sections 61.320 and 61.321 to read as follows:

16 Sec. 61.320. APPLICATION OF DECEPTIVE TRADE PRACTICES ACT.

17 (a) A person who violates this subchapter commits a false,  
18 misleading, or deceptive act or practice within the meaning of  
19 Section 17.46, Business & Commerce Code.

20 (b) A public or private right or remedy under Chapter 17,  
21 Business & Commerce Code, may be used to enforce this subchapter.

22 Sec. 61.321. INFORMATION PROVIDED TO PROTECT PUBLIC FROM  
23 FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREES. To protect the  
24 public from private postsecondary educational institutions or  
25 other persons that confer or offer to confer fraudulent or  
26 substandard degrees and from persons that use or hold fraudulent or  
27 substandard degrees or that use or claim to hold fictitious

1 degrees, the board shall disseminate the following information  
2 through the board's Internet website:

3 (1) to the extent known by the board, the  
4 accreditation status or the status regarding authorization or  
5 approval under this subchapter, as applicable, of each private  
6 postsecondary educational institution or other person that is  
7 regulated by this subchapter or for which a determination is made  
8 under Section 61.3021, including:

9 (A) the name of each educational institution  
10 accredited, authorized, or approved to offer or grant degrees in  
11 this state;

12 (B) the name of each educational institution  
13 whose degrees the board has determined may not be legally used in  
14 this state; and

15 (C) the name of each educational institution that  
16 the board has determined to be operating in this state in violation  
17 of this subchapter; and

18 (2) any other information considered by the  
19 commissioner to be useful to protect the public from fraudulent,  
20 substandard, or fictitious degrees.

21 SECTION 8. Subchapter D, Chapter 32, Penal Code, is amended  
22 by adding Section 32.52 to read as follows:

23 Sec. 32.52. FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREE.

24 (a) In this section, "fraudulent or substandard degree" has the  
25 meaning assigned by Section 61.302, Education Code.

26 (b) A person commits an offense if the person:

27 (1) uses or claims to hold a postsecondary degree that

1 the person knows:

2 (A) is a fraudulent or substandard degree;

3 (B) is fictitious or has otherwise not been  
4 granted to the person; or

5 (C) has been revoked; and

6 (2) uses or claims to hold that degree:

7 (A) in a written or oral advertisement or other  
8 promotion of a business; or

9 (B) with the intent to:

10 (i) obtain employment;

11 (ii) obtain a license or certificate to  
12 practice a trade, profession, or occupation;

13 (iii) obtain a promotion, a compensation or  
14 other benefit, or an increase in compensation or other benefit, in  
15 employment or in the practice of a trade, profession, or  
16 occupation;

17 (iv) obtain admission to an educational  
18 program in this state; or

19 (v) gain a position in government with  
20 authority over another person, regardless of whether the actor  
21 receives compensation for the position.

22 (c) An offense under this section is a Class B misdemeanor.

23 (d) If conduct that constitutes an offense under this  
24 section also constitutes an offense under any other law, the actor  
25 may be prosecuted under this section or the other law.

26 SECTION 9. Chapter 13, Code of Criminal Procedure, is  
27 amended by adding Article 13.30 to read as follows:

1        Art. 13.30. FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREE.

2        An offense under Section 32.52, Penal Code, may be prosecuted in the  
3        county in which an element of the offense occurs or in Travis  
4        County.

5        SECTION 10. This Act takes effect September 1, 2005.