

By: Brown of Brazos (Senate Sponsor - Ogden) H.B. No. 1173
(In the Senate - Received from the House May 16, 2005;
May 17, 2005, read first time and referred to Committee on
Education; May 20, 2005, reported favorably by the following vote:
Yeas 6, Nays 0; May 20, 2005, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

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

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

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

(11) "Fraudulent or substandard degree" means:

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

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

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

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

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

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

Sec. 61.3021. REVIEW OF DEGREE NOT OTHERWISE REGULATED BY
SUBCHAPTER. (a) The board by rule shall establish a process for
reviewing and approving a degree conferred by a person described by
Section 61.302(11)(B) or (C). The review process must 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) The board may charge an applicant for a review under
this section a fee in an amount the board determines will cover the
cost of conducting the review.

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

Sec. 61.304. REQUISITE AUTHORITY TO GRANT DEGREES AND OFFER
COURSES; OFFENSES. (a) A person may not grant or award a degree or
offer to grant or award a degree on behalf of a private
postsecondary educational institution unless the institution has
been issued a certificate of authority to grant the degree by the
board in accordance with the provisions of this subchapter.

(b) A person may not represent that credits earned or granted
by that person or institution are applicable for credit toward a
degree to be granted by some other person or institution except

under conditions and in a manner specified and approved by the board.

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

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

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

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

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

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

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

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

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

Sec. 61.312. HONORARY DEGREES; OFFENSES. (a) No person may 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. The honorary degree shall plainly state on its face that it is honorary.

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

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

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

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

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

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

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

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

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

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

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

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

(j) 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. Subchapter G, Chapter 61, Education Code, is amended by adding Sections 61.320 and 61.321 to read as follows:

Sec. 61.320. APPLICATION OF DECEPTIVE TRADE PRACTICES ACT.

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

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

Sec. 61.321. INFORMATION PROVIDED TO PROTECT PUBLIC FROM

FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREES. 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, the board shall disseminate the following information through the board's Internet website:

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

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

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

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

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

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

Sec. 32.52. FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREE. (a) In this section, "fraudulent or substandard degree" has the meaning assigned by Section 61.302, Education Code.

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

(1) uses or claims to hold a postsecondary degree that the person knows:

(A) is a fraudulent or substandard degree;

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

(C) has been revoked; and

(2) uses or claims to hold that degree:

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

(B) with the intent to:

(i) obtain employment;

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

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

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

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

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

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

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

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

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

* * * * *