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HOUSE BILL NO. 36

House Amendments in [] - January 20, 2006

A BILL to amend and reenact § 23-276.12 of the Code of Virginia, relating to violations of the chapter on regulation of certain private and out-of-state institutions of higher education; civil penalty.

Patron Prior to Engrossment—Delegate Tata

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 23-276.12 of the Code of Virginia is amended and reenacted as follows:

§ 23-276.12. Violations; criminal penalty; injunction proceeding; civil penalty.

A. Violations of this chapter or the Council's implementing regulations ~~shall~~ *may* be punishable as a Class 1 misdemeanor. Each degree, diploma, certificate, program, or course of study offered, conferred, or used in violation of this chapter or the Council's regulations shall constitute a separate offense.

B. The Council may *also* institute a proceeding in equity to enjoin any violation of this chapter or its implementing regulations. *Further, if no criminal prosecution is instituted against such postsecondary school pursuant to subsection A, the Council shall have the authority to recover a civil penalty of at least \$200 but not more than [\$2,500 \$1,000] per violation, with each unlawful act constituting a separate violation. In no event shall the civil penalties against any one person, corporation, or other entity exceed \$25,000 per year.*

C. Upon substantially prevailing on the merits of the case and unless special circumstances would render such an award unjust, the Council shall be entitled to an award of reasonable attorney's fees and costs in any action to enjoin violations of this chapter or its implementing regulations.

ENGROSSED

HB36E