

084103748

HOUSE BILL NO. 766

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 28, 2008)

(Patron Prior to Substitute—Delegate Tata)

A BILL to amend and reenact §§ 23-276.1, 23-276.10, and 23-276.12 of the Code of Virginia, relating to fraudulent academic credentials; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 23-276.1, 23-276.10, and 23-276.12 of the Code of Virginia are amended and reenacted as follows:

§ 23-276.1. Definitions.

As used in this chapter:

"Academic-Vocational" refers to a noncollege degree school that offers degree and nondegree credit courses.

"Agent" means a person who is employed by any institution of higher education or noncollege degree school, whether such institution or school is located within or outside the Commonwealth, to act as an agent, solicitor, procurer, broker or independent contractor to procure students or enrollees for any such institution or school by solicitation in any form at any place in the Commonwealth other than the office or principal location of such institution or school.

"Certificate" or "diploma" means an award that is given for successful completion of a curriculum comprised of courses that may also be taken for degree credit and shall apply only to those awards given for coursework offered by institutions of higher education and academic-vocational noncollege degree schools.

"College" means any institution of higher education that offers associate or baccalaureate level degree programs.

"Continuing or professional education" means those classes, courses, and programs, designed specifically for individuals who have completed a degree in a professional field, that (i) are intended to fulfill the continuing education requirements for licensure or certification in said profession; (ii) have been approved by a legislatively or judicially established board or agency responsible for regulating the practice of the profession; and (iii) are offered exclusively to an individual practicing in the profession.

"Council" means the State Council of Higher Education for Virginia.

"Degree" means any earned award at the associate, baccalaureate, graduate, first professional or specialist levels that represents satisfactory completion of the requirements of a program or course of study or instruction beyond the secondary school level.

"Degree credit course" means any earned credits awarded for successful completion of the requirements of a course of study or instruction beyond the secondary school level, which may be used toward completion of a certificate or diploma, or an associate, baccalaureate, graduate, first professional or specialist level degree.

"*Fraudulent academic credential*" means a diploma, certification, academic transcript, or other document issued by a person or an entity that is not an institution of higher education that provides evidence of or demonstrates completion of course work or academic credit that results in the issuance of an associate or more advanced degree.

"In-state institution" means an institution of higher education that is formed, chartered, or established within Virginia. An out-of-state institution shall be deemed an in-state institution for the purposes of certification as a degree-granting institution if (i) it has no instructional campus in the jurisdiction in which it was formed, chartered, established, or incorporated and (ii) it produces clear and convincing evidence that its main or principal campus is located in Virginia.

"Institution of higher education" or "institution" means any person or entity, other than a Virginia state-supported institution of higher education named in § 23-9.5 or any public institution of higher education established in statute as an authority and declared a governmental instrumentality pursuant to § 23-14, that has received approval from the Council to (i) use the term "college" or "university," or words of like meaning, in its name or in any manner in connection with its academic affairs or business; (ii) enroll students; or (iii) offer approved courses for degree credit or programs of study leading to a degree or to offer degrees either at a site in Virginia or via telecommunications equipment located within Virginia.

"Multistate compact" means any agreement involving two or more states to offer jointly postsecondary educational opportunities, pursuant to policies and procedures set forth by such agreement and approved by the Council.

"Noncollege degree school" means any postsecondary school that offers courses or programs of study

60 that do not lead to an associate or higher level degree. Such schools may be academic-vocational or
61 vocational.

62 "Nondegree credit course" means any earned credits awarded for successful completion of the
63 requirements of a course of study or instruction beyond the secondary school level, which may be used
64 toward completion of a certificate or diploma, but may not be used to earn an associate or higher level
65 degree.

66 "Out-of-state institution" means an institution of higher education that is formed, chartered,
67 established, or incorporated outside the Commonwealth.

68 "Postsecondary school" or "school" means any entity offering formal instructional programs with a
69 curriculum designed primarily for students who have completed the requirements for a high school
70 diploma or its equivalent. Such schools include programs of academic, vocational, and continuing
71 professional education, and exclude avocational and adult basic education programs. For the purposes of
72 this chapter, a "postsecondary school" shall be classified as either an institution of higher education as
73 defined in this section or a noncollege degree school, as defined in this section.

74 "Program" means a curriculum or course of study in a discipline or interdisciplinary area that leads
75 to a degree, certificate, or diploma.

76 "Program area" means a general group of disciplines in which one or more degree programs,
77 certificates, or diplomas may be offered.

78 "Proprietary" means a privately owned and managed, profit-making institution of higher education or
79 noncollege degree school.

80 "Site" means a location in Virginia where a postsecondary school (i) offers one or more courses on
81 an established schedule and (ii) enrolls two or more persons who are not members of the same
82 household. A site may be a branch of such postsecondary school, and shall not be required to possess
83 administrative capability.

84 "University" means any institution offering programs leading to degrees or degree credit beyond the
85 baccalaureate level.

86 "Vocational" refers to a noncollege degree school that offers only nondegree credit courses.

87 § 23-276.10. Prohibited acts.

88 A. Without prior Council approval, no person or other entity subject to the provisions of this chapter
89 shall use in any manner, within the Commonwealth of Virginia, the term "college" or "university" or
90 abbreviations or words of similar meaning in its name or in any manner in connection with its academic
91 affairs or business or in any literature, catalog, pamphlet, or descriptive material.

92 This subsection shall not apply to any person or other entity that (i) used the term "college" or
93 "university" openly and conspicuously in its title within the Commonwealth prior to July 1, 1970; (ii)
94 was granted authority to operate in Virginia by the Council between July 1, 1970, and July 1, 2002, and
95 maintains valid authority to so operate in Virginia after July 1, 2002; (iii) was exempted from the
96 provisions of Chapter 21 (§ 23-265 et seq.) of this title, as such law was in effect prior to July 1, 2002;
97 or (iv) was authorized by the Council to use a name while its request for approval to enroll students is
98 pending before the Council.

99 B. No person or other entity shall sell, barter, or exchange for any consideration, or attempt to sell,
100 barter, or exchange for any consideration, any degree credit, degree, diploma, or certificate.

101 C. No person or other entity shall use, or attempt to use, in connection with any business, trade,
102 profession, or occupation, any degree or certification of degree or degree credit, including, but not
103 limited to, a transcript of coursework that he knows or has reason to know has been fraudulently issued,
104 obtained, forged, materially altered, or purchased.

105 *D. No person or other entity shall issue or manufacture a fraudulent academic credential.*

106 *E. No person or other entity shall use a fraudulent academic credential, knowing it is fraudulent, in*
107 *an attempt to obtain employment, promotion, licensure, or admission to an institution of higher*
108 *education.*

109 *F. No person or entity that is not an institution of higher education accredited by an accrediting*
110 *agency recognized by the U.S. Department of Education, or having the foreign equivalent of such*
111 *accreditation, shall in any way represent that the person or entity is so accredited.*

112 ~~D.~~ G. Unless exempted from the provisions of this chapter or granted approval by the Council in
113 accordance with this chapter and relevant regulations, no person or other entity shall represent that
114 credits earned at or granted by any institution of higher education or academic-vocational noncollege
115 degree school may be applied for credit toward a degree.

116 § 23-276.12. Violations; criminal penalty; injunction proceeding; civil penalty.

117 A. Violations of this chapter or the Council's implementing regulations may be punishable as a Class
118 1 misdemeanor. Each degree, diploma, certificate, program, *academic transcript* or course of study
119 offered, conferred, or used in violation of this chapter or the Council's regulations shall constitute a
120 separate offense.

121 B. The Council may also institute a proceeding in equity to enjoin any violation of this chapter or its

122 implementing regulations. Further, if no criminal prosecution is instituted against such postsecondary
123 school pursuant to subsection A, the Council shall have the authority to recover a civil penalty of at
124 least \$200 but not more than \$1,000 per violation, with each unlawful act constituting a separate
125 violation. In no event shall the civil penalties against any one person, corporation, or other entity exceed
126 \$25,000 per year.

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