

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 458

An Act to amend and reenact §§ 23-265 and 23-266 of the Code of Virginia, relating to the postsecondary educational opportunities offered pursuant to certain multistate compacts.

[H 2482]

Approved March 26, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 23-265 and 23-266 of the Code of Virginia are amended and reenacted as follows:

§ 23-265. Definitions.

As used in this chapter:

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

"Degree" means any earned award at the associate, baccalaureate, graduate or professional level which represents satisfactory completion of the requirements of a program or course of study or instruction beyond the secondary school level and includes certificates and specialist degrees when such awards represent a level of educational attainment above that of the associate degree level.

"Degree program" means a curriculum or course of study in a discipline or interdisciplinary specialty that leads to a degree.

"Diploma" or "certificate" means an award which represents a level of educational attainment at or below the associate degree level and which is given for successful completion of a curriculum comprised of two or more courses and applies only to those awards given for coursework offered within Virginia by institutions of higher education which are appropriately approved to offer, either within the Commonwealth or outside the Commonwealth, degrees at the associate, baccalaureate, graduate, or professional level.

"Institution of higher education" means any person, firm, corporation, association, agency, institute, trust or other entity of any nature whatsoever offering education beyond the secondary level which:

1. Offers courses or programs of study or instruction which lead to, or which may reasonably be understood to be applicable toward, a degree; or
2. Operates a facility as a college or university or other entity of whatever kind which offers degrees or other indicia of a level of educational attainment beyond the secondary school level; or
3. Uses 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.

"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.

"Postsecondary school" or "school" shall have the meaning ascribed to it in § 22.1-319.

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

§ 23-266. Exemptions.

A. The provisions of this chapter shall not be applicable to any institution named in § 23-9.5 or any institution of higher education (i) whose primary purpose is to provide religious training or theological education, (ii) which awards degrees, diplomas or certificates whose titles indicate such primary purpose plainly upon their face and which state that the institution is excluded from the requirement of state approval, and (iii) whose catalogs and other publications plainly state that the institution's primary purpose is to provide religious training or theological education, that the institution's degrees, diplomas or certificates are so titled and worded and that the institution is excluded from the requirement of state approval.

B. Upon a determination by the Council as provided in subsection D of this section, the following institutions, schools, programs, degrees, diplomas, and certificates shall be exempted from the provisions of this chapter:

1. Any institution not exempt under the provisions of subsection A of this section whose primary purpose is to provide religious training or theological education and whose degree, diploma, or certificate is limited to evidence of completion of that education; provided, however, that any such institution which also offers degrees, diplomas, or certificates that are not awarded for the completion of religious training or theological education shall, to the extent of such nonreligious, nontheological degrees, diplomas, or certificates, be subject to the provisions of this chapter.

2. An institution's conferring or awarding of an honorary degree, as long as the degree (i) does not represent the satisfactory completion of all or any part of the requirements of a program or course of study and (ii) is normally regarded as one which is intended to be commemorative in nature in recognition of an individual's contributions to society.

3. An institution's offering of (i) a nursing education program to the extent the program is regulated by the Board of Nursing or (ii) a professional program for professional or occupational training to the extent the program is subject to the approval by a regulatory board pursuant to Title 54.1.

4. Any postsecondary school subject to the provisions of Chapter 16 (§ 22.1-319 et seq.) of Title 22.1 that offers only certificate or diploma programs; however, the addition of a degree program by any such school shall require the approval of the Council pursuant to the provisions of this chapter.

5. An institution's awarding of a certificate or diploma on the basis of continuing education unit credit, or the equivalent, provided that the certificate or diploma so awarded indicates that the award is not based on the successful completion of degree credit work.

6. Courses or programs of instruction given by or approved by any professional body, fraternal organization, civic club, or benevolent order principally for professional education or advancement or similar purpose and for which no degree or degree credit is awarded; ~~and~~.

7. Postsecondary educational courses or programs of instruction offered by institutions of higher education at United States military posts or reservations when all of the courses or programs so offered are open only to military personnel or civilians employed by such military posts or reservations.

8. *Postsecondary educational courses or programs offered through approved multistate compacts, including, but not limited to, the Southern Regional Education Board's Southern Regional Electronic Campus.*

C. The Council may approve institutions of higher education to offer courses or programs exempted from this chapter pursuant to subdivision 7 of subsection B of this section if requested to do so by the appropriate military officials.

D. Each institution of higher education or school which claims to be exempt under the provisions of subsection B hereof shall file with the Council such information as may be required by the Council to determine whether the institution or school is exempt or to ensure that the institution or school continues to be exempt. The information so required by the Council shall be strictly limited to that which is necessary and relevant for such purposes. If the Council determines that an institution or school is not exempt from the provisions of this chapter, it shall notify the institution or school in writing with the reasons for the determination, and the affected institution or school shall have the opportunity for proceedings before the Council pursuant to § 9-6.14:11. The Council shall, in each instance, determine the validity of the exemption as provided in this section and such regulations as may be prescribed by the Council; provided, however, that any institution which claims an exemption under subsection A of this section on the basis that its primary purpose is to provide religious training or theological education shall be entitled to a rebuttable presumption of the truth of that claim.