



2009 SENATE BILL 431

December 16, 2009 – Introduced by Senators RISSER, VINEHOUT and TAYLOR, cosponsored by Representatives HIXSON, DANOU, TOWNSEND, A. WILLIAMS, BENEDICT and PARISI. Referred to Committee on Agriculture and Higher Education.

1 **AN ACT to amend** 20.292 (2) (g) and 38.50 (7) (g); and **to create** 38.50
2 (13) and 111.335 (1) (cx) of the statutes; **relating to:** the use of the terms college,
3 university, state, and Wisconsin in the name of a school; the issuing,
4 manufacture, or use of a false academic credential; the false use of a legitimate
5 academic credential; making an appropriation; and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, no private trade, correspondence, business, or technical school may advertise or operate in this state unless the school is first approved by the Educational Approval Board (EAB). Those exceptions include schools that are supported mainly by taxes, schools that are of a denominational character, schools that are approved by other state agencies, and schools that are accredited by accrediting agencies recognized by the EAB.

This bill prohibits a school, including a school that is exempt from the EAB approval requirement, from using the term “college” or “university” in its name unless the school provides an educational program for which it awards an associate or higher degree and the school has accreditation recognized by the U.S. secretary of education; has the foreign equivalent of that accreditation, as determined by the EAB; or has accreditation recognized by the Council for Higher Education Accreditation. This prohibition, however, does not apply to a school that was doing business in this state with the approval of the EAB prior to the effective date of the bill. The bill also prohibits a school, including a school that is exempt from the EAB

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approval requirement, from using the term “state” or “Wisconsin” in its name if the use of that term operates to mislead the public into believing that the school is affiliated with the University of Wisconsin System, the technical college system, or this state, unless the school actually is so affiliated. If a school uses the term “college,” “university,” “state,” or “Wisconsin” in violation of the bill, the school may be required to forfeit not more than \$500 for each day of operation without that approval and a student of the school may bring a civil action to recover fees paid to the school, plus costs and disbursements, including reasonable attorney fees.

The bill also prohibits all of the following:

1. Knowingly issuing or manufacturing a false academic credential, as defined in the bill. A person who violates this prohibition is guilty of a Class A misdemeanor, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

2. Knowingly using a false academic credential or falsely claiming to have a legitimate academic credential as follows: 1) in any communication to a client or to the general public, in connection with any business, trade, profession, or occupation; 2) for the purpose of obtaining a license or other approval required to practice a trade, profession, or occupation; 3) for the purpose of obtaining admission to an authorized institution of higher education, as defined in the bill; or 4) for the purpose of obtaining an employment position with a state agency or with a political subdivision of the state, including an elective or appointive position, whether compensated or not, a promotion, transfer, or reassignment from such a position, or an increase in compensation or benefits for such a position. A person who violates any of these prohibitions may be required to forfeit not more than \$1,000.

For purposes of those prohibitions:

1. “Academic credential” means a degree, transcript, certificate, or other similar document that indicates the completion of a program, course, or course of instruction leading to, or the earning of academic credit toward, the granting of an associate, baccalaureate, or graduate degree.

2. “False academic credential” means an academic credential issued or manufactured by a person that is not an authorized institution of higher education.

3. “Legitimate academic credential” means an academic credential issued by an authorized institution of higher education.

4. “Authorized institution of higher education” means an educational institution that has accreditation recognized by the U.S. secretary of education, has the foreign equivalent of that accreditation, as determined by the EAB, or has accreditation recognized by the Council for Higher Education Accreditation; is approved by the EAB to operate as a proprietary school in this state; operates in this state and is a school exempt from EAB approval; does not operate in this state, but is licensed or otherwise approved by the appropriate state agency of another state and is an active applicant for accreditation by an accrediting body recognized by the U.S. secretary of education or by the Council for Higher Education Accreditation; or has been found by the EAB to meet standards of academic quality comparable to those of an educational institution located in the United States that has

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accreditation recognized by the U.S. secretary of education or by the Council for Higher Education Accreditation to offer credentials of the type and level claimed.

Finally, the bill provides that it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensure, any individual who has been convicted of knowingly using a false academic credential, or of falsely using or claiming to have a legitimate academic credential in violation of the bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.292 (2) (g) of the statutes is amended to read:

2 20.292 (2) (g) *Proprietary school programs.* The amounts in the schedule for
3 the examination and approval of proprietary school programs. Ninety percent of all
4 moneys received from the issuance of solicitor's permits under s. 38.50 (8) and from
5 the fees under s. 38.50 (10) and all moneys received from the fees under s. 38.50 (13)
6 (d) shall be credited to this appropriation account.

7 **SECTION 2.** 38.50 (7) (g) of the statutes is amended to read:

8 38.50 (7) (g) Approve courses of instruction, schools, changes of ownership or
9 control of schools, and teaching locations meeting the requirements and standards
10 established by the board and complying with rules promulgated by the board and;
11 publish a list of the schools and courses of instruction approved and a list of the
12 schools that are authorized to use the term "college," "university," "state," or
13 "Wisconsin" in their names; and make those lists of the schools available on the
14 board's Internet site.

15 **SECTION 3.** 38.50 (12) of the statutes is created to read:

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1 38.50 (12) NAME OF SCHOOL. (a) No school, including a school described in sub.
2 (1) (e) 1. to 8., may use the term “college” or “university” in its name unless the school
3 provides an educational program for which it awards an associate or higher degree
4 and the school has accreditation recognized by the U.S. secretary of education; has
5 the foreign equivalent of that accreditation, as determined by the board; or has
6 accreditation recognized by the Council for Higher Education Accreditation. This
7 paragraph does not apply to a school that was doing business in this state with the
8 approval of the board prior to the effective date of this paragraph [LRB inserts
9 date].

10 (b) No school, including a school described in sub. (1) (e) 1. to 8., may use the
11 term “state” or “Wisconsin” in its name if the use of that term operates to mislead the
12 public into believing that the school is affiliated with the University of Wisconsin
13 System, the technical college system, or this state, unless the school actually is so
14 affiliated.

15 (c) The attorney general or any district attorney may bring an action in circuit
16 court for the enforcement of this subsection, including bringing an action to restrain
17 by temporary or permanent injunction any violation of par. (a) or (b).

18 (d) Any person who violates par. (a) or (b) may be required to forfeit not more
19 than \$500. Each day of operation in violation of par. (a) or (b) constitutes a separate
20 offense.

21 (e) In addition to any other remedies provided by law, a student who attends
22 a school that is in violation of par. (a) or (b) may bring a civil action to recover fees
23 paid to the school, together with costs and disbursements, including reasonable
24 attorney fees.

25 **SECTION 4.** 38.50 (13) of the statutes is created to read:

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1 38.50 (13) FALSE ACADEMIC CREDENTIALS. (a) In this subsection:

2 1. “Academic credential” means a degree, transcript, certificate, or other
3 similar document that indicates the completion of a program, course, or course of
4 instruction leading to, or the earning of academic credit toward, the granting of an
5 associate, baccalaureate, or graduate degree.

6 2. “Authorized institution of higher education” means an educational
7 institution that meets any of the following requirements:

8 a. Has accreditation recognized by the U.S. secretary of education; has the
9 foreign equivalent of that accreditation, as determined by the board; or has
10 accreditation recognized by the Council for Higher Education Accreditation.

11 b. Is approved by the board to operate in this state.

12 c. Operates in this state and is a school described in sub. (1) (e) 1. to 8.

13 d. Does not operate in this state, but is licensed or otherwise approved by the
14 appropriate state agency of another state and is an active applicant for accreditation
15 by an accrediting body recognized by the U.S. secretary of education or by the Council
16 for Higher Education Accreditation.

17 e. Has been found by the board to meet standards of academic quality
18 comparable to those of an educational institution located in the United States that
19 has accreditation recognized by the U.S. secretary of education or by the Council for
20 Higher Education Accreditation to offer credentials of the type and level claimed.

21 3. “False academic credential” means an academic credential issued or
22 manufactured by a person that is not an authorized institution of higher education.

23 4. “Legitimate academic credential” means an academic credential issued by
24 an authorized institution of higher education.

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1 (b) Any person who knowingly issues or manufactures a false academic
2 credential is guilty of a Class A misdemeanor.

3 (c) Any person who knowingly uses a false academic credential, or who falsely
4 claims to have a legitimate academic credential, as follows may be required to forfeit
5 not more than \$1,000:

6 1. In any communication to a client or to the general public, in connection with
7 any business, trade, profession, or occupation.

8 2. For the purpose of obtaining a license or other approval required to practice
9 a trade, profession, or occupation.

10 3. For the purpose of obtaining admission to an authorized institution of higher
11 education.

12 4. For the purpose of obtaining an employment position with a state agency or
13 with a political subdivision of the state, including an elective or appointive position,
14 whether compensated or not; of obtaining a promotion, transfer, or reassignment
15 from such a position; or of obtaining an increase in compensation or benefits for such
16 a position.

17 (d) The board may charge a fee for evaluating an educational institution under
18 par. (a) 2. e. in an amount that is sufficient to cover all costs that the board incurs
19 in evaluating the institution. All fees collected by the board under this paragraph
20 shall be credited to the appropriation account under s. 20.292 (2) (g).

21 **SECTION 5.** 111.335 (1) (cx) of the statutes is created to read:

22 111.335 (1) (cx) Notwithstanding s. 111.322, it is not employment
23 discrimination because of conviction record to refuse to employ or license, or to bar

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1 or terminate from employment or licensure, any individual who has been convicted
2 of any offense under s. 38.50 (13) (c).

3 (END)