

**HOUSE BILL NO. 256**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE DAVIS

Introduced: 4/21/97

Referred: Health, Education and Social Services

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to regulation of postsecondary educational institutions; and  
2 providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 14.48.030 is repealed and reenacted to read:

5 **Sec. 14.48.030. Exemptions.** (a) The following educational programs, and  
6 institutions providing only the following educational programs, are exempt from the  
7 provisions of this chapter:

8 (1) instruction provided at a level from preschool through grade 12,  
9 including preparation for general equivalency diploma examinations;

10 (2) a program operated by the United States;

11 (3) a program that does not offer educational credentials and is  
12 provided only to prepare individuals to take graduate examinations; and

13 (4) a program that does not offer educational credentials and is only  
14 avocational or recreational in nature.

1 (b) The commission may exempt the following educational programs, and  
 2 educational institutions only providing programs exempt under (a) of this section and  
 3 this subsection, from some or all of the provisions of this chapter:

4 (1) a program operated by a state or a political subdivision of a state;

5 (2) instruction sponsored by a bona fide trade, business, labor,  
 6 professional, or fraternal association or organization, recognized by the commission,  
 7 and conducted only for that association's or organization's membership;

8 (3) nonprofit postsecondary educational institutions offering  
 9 undergraduate or graduate educational programs, from a facility in this state, that are  
 10 acceptable for credit toward an associate, bachelor's, or graduate degree;

11 (4) a program that is provided without a fee, other than the actual cost  
 12 of materials, to students;

13 (5) a program that does not offer education credentials;

14 (6) a short course of study that is no more than 10 days or 80 hours in  
 15 duration;

16 (7) a program offered within the state by an out-of-state institution that  
 17 is authorized to operate by the state in which it is located and is nationally or  
 18 regionally accredited;

19 (8) a program or institution that is regulated by another agency or  
 20 political subdivision of the state regarding the quality of course contents, facilities, and  
 21 operation.

22 (c) In this section, "nonprofit" means an organization that is exempt under 26  
 23 U.S.C. 501(c)(3).

24 \* **Sec. 2.** AS 14.48.090 is repealed and reenacted to read:

25 **Sec. 14.48.090. Fees.** The commission shall adopt regulations that establish  
 26 the amount and manner of payment of fees for applications, authorizations, permits,  
 27 and renewals under this chapter.

28 \* **Sec. 3.** AS 14.48.120 is repealed and reenacted to read:

29 **Sec. 14.48.120. Sanctions; cessation of operation.** (a) An authorization to  
 30 operate or an agent's permit may be revoked, suspended, or conditioned if the  
 31 commission has reasonable cause to believe that the holder of the authorization or

1 permit has violated this chapter, AS 45.50.471, or regulations adopted under this  
 2 chapter or under AS 45.50.491. Except as provided in (c) and (d) of this section,  
 3 AS 44.62 (Administrative Procedure Act) governs the procedure for a revocation,  
 4 suspension, or other sanction under this section.

5 (b) In addition to the sanctions imposed under (a) of this section, the  
 6 commission may assess a civil fine, not to exceed \$5,000, for costs of investigating  
 7 and adjudicating a matter under this section if the commission finds that a violation  
 8 has occurred.

9 (c) Authorization for an institution to operate and a permit for an agent  
 10 representing that institution are canceled 30 days after the institution ceases to operate  
 11 as a postsecondary educational institution. The commission shall give the institution  
 12 and the agent 15 days' written notice, by certified mail, sent return receipt requested,  
 13 to the last known address of the institution and agent.

14 (d) The institution or the agent may appeal a cancellation under (c) of this  
 15 section by filing an appeal in writing with the commission within 30 days after the  
 16 cancellation showing that the institution has not ceased operating as a postsecondary  
 17 educational institution.

18 \* **Sec. 4.** AS 14.48.130(c) is repealed and reenacted to read:

19 (c) If, based on the evidence at a hearing, the commission finds that a  
 20 postsecondary educational institution or its agent, or both, has engaged in an act or  
 21 practice that violates this chapter or regulations adopted under this chapter, the  
 22 commission

23 (1) shall serve on the institution or agent, or both, an order requiring  
 24 the institution or agent, or both, to cease and desist from the act or practice;

25 (2) may award the individual or class of individuals named in the  
 26 complaint full or partial restitution for damage or loss if the commission finds that the  
 27 individual or class of individuals has suffered loss or damage as a result of the act or  
 28 practice;

29 (3) may impose the penalties provided for in AS 14.48.190;

30 (4) may assess a civil fine, not to exceed \$5,000, for costs of  
 31 investigating and adjudicating a matter under this section; and

1 (5) may, based on its own investigation and the evidence presented at  
 2 the hearing, begin an action to revoke an institution's authorization to operate or an  
 3 agent's permit.

4 \* **Sec. 5.** AS 14.48.130 is amended by adding a new subsection to read:

5 (d) If the commission makes an award under (c)(2) of this section to an  
 6 individual who owes principal or interest to a lender for a loan received for the  
 7 purpose of financing education provided by the institution, the institution, or surety,  
 8 if applicable, shall pay the amount of the award that does not exceed the outstanding  
 9 loan balance to the lender to be credited against the loan. Notwithstanding this  
 10 subsection, the commission may, for good cause shown, order that all of the award be  
 11 paid to an individual who receives an award from the commission.

12 \* **Sec. 6.** AS 14.48.210(3) is amended to read:

13 (3) "authorization to operate" means approval of the commission to  
 14 operate or to contract to operate a postsecondary educational institution **that provides**  
 15 **education or grants educational credentials** in the state;

16 \* **Sec. 7.** AS 14.48.210(5) is amended to read:

17 (5) "education," [OR] "educational program or services," **"instruction,"**  
 18 **or "instructional program"** [OR LIKE TERM] includes any class, course, or  
 19 program of training, instruction, or study;

20 \* **Sec. 8.** AS 14.48.210(8) is amended to read:

21 (8) "postsecondary educational institution" **means** [INCLUDES AN]  
 22 academic, vocational, technical, home study, business, professional, or other school,  
 23 college, or university **offering education** [, OR OTHER ORGANIZATION OR  
 24 PERSON, OFFERING EDUCATIONAL CREDENTIALS, OR OFFERING  
 25 INSTRUCTION OR EDUCATIONAL SERVICES] primarily to persons who have  
 26 completed or terminated their secondary education, or who are beyond the age of  
 27 compulsory high school attendance, for attainment of educational, professional, or  
 28 vocational objectives;

29 \* **Sec. 9.** AS 14.48.210(11) is amended to read:

30 (11) "to operate a postsecondary institution" means to establish [,] or  
 31 maintain a facility or location [IN THE STATE] where education is **provided**

1 [OFFERED OR GIVEN,] or **postsecondary** educational credentials are [OFFERED  
 2 OR] granted **to persons in the state** [,] and includes contracting with any person,  
 3 group, or entity to operate **such** an educational institution.

4 \* **Sec. 10. TRANSITIONAL PROVISIONS.** (a) Until a new fee schedule is adopted by  
 5 regulation under AS 14.48.030, as amended by sec. 2 of this Act, the commission may charge  
 6 the fees set out in the following schedule for an authorization to operate an institution in this  
 7 state and for an agent's permit related to activities for postsecondary educational institutions:

- |    |   |        |
|----|---|--------|
| 8  | (1) authorization to operate            | \$100; |
| 9  | (2) renewal of authorization to operate | \$100; |
| 10 | (3) an agent's permit                   | \$ 50; |
| 11 | (4) renewal of an agent's permit        | \$ 50. |

12 \* **Sec. 11.** The commission may immediately proceed to adopt regulations necessary to  
 13 implement the changes made by this Act. The regulations take effect under AS 44.62  
 14 (Administrative Procedure Act), but not before the effective date set out in sec. 13 of this Act.

15 \* **Sec. 12.** Section 11 of this Act takes effect immediately under AS 01.10.070(c).

16 \* **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect July 1, 1997.