

House Bill 2701

Sponsored by Representatives DOHERTY, KENNEMER; Representative ESQUIVEL (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits Higher Education Coordinating Commission from placing career school or agent on probation, or suspending or revoking license, unless sanction is authorized by hearing officer.

A BILL FOR AN ACT

1
2 Relating to sanctions for career schools; creating new provisions; and amending ORS 345.030,
3 345.120 and 345.995.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 345.120 is amended to read:

6 345.120. (1) On the written complaint of any person, the Higher Education Coordinating Com-
7 mission shall, and on the commission's own motion may, investigate the actions of any career school
8 or agent, or any person who assumes to act in either capacity within this state.

9 **(2) If at the conclusion of the investigation the commission determines that, in addition**
10 **to any penalty that may be imposed under ORS 345.995, a licensee should be placed on pro-**
11 **bation or that the commission should suspend or revoke any license issued under ORS**
12 **345.010 to 345.450, the commission shall institute a contested case hearing under ORS 183.310**
13 **(2). If a contested case hearing is instituted under this subsection, not later than 20 days**
14 **before the date of the hearing the commission shall provide to the licensee:**

15 (a) **A copy of the complaint, if any, that initiated the investigation under subsection (1)**
16 **of this section;**

17 (b) **A copy of any findings that resulted from the investigation initiated under subsection**
18 **(1) of this section; and**

19 (c) **Written notice of the place, time and reason for the hearing.**

20 [(2)] (3) *[As a result of the investigation, and in addition to any penalty that may be imposed under*
21 *ORS 345.992,]* The commission may place a licensee on probation or may suspend or revoke any li-
22 cense issued under ORS 345.010 to 345.450 *[when]* **only upon a determination by the hearing of-**
23 **ficer that** the licensee has:

24 (a) Obtained a license by misrepresentation.

25 (b) Violated ORS 345.010 to 345.450 or any applicable rule.

26 (c) Ceased to engage in the business authorized by the license.

27 (d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

28 [(3)] *When notice of suspension or revocation is issued, the licensee shall be notified and, upon re-*
29 *quest, shall be granted a contested case hearing under ORS 183.310 (2).]*

30 (4) A licensee placed on probation must be formally notified by the commission that *[it]* **the**
31 **licensee** has deficiencies that must be corrected within a time specified in the notice.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (5) A licensee whose license is suspended is prohibited from advertising, recruiting or enrolling
2 students but may remain in operation to complete training of students enrolled on the effective date
3 of the suspension.

4 (6) A licensee whose license has been revoked is not authorized to continue in operation on and
5 after the effective date of the revocation.

6 **SECTION 2.** ORS 345.030 is amended to read:

7 345.030. (1) A person may not open, conduct or do business as a career school in this state
8 without obtaining a license under ORS 345.010 to 345.450.

9 (2) Except as provided in subsection (8) of this section, the Higher Education Coordinating
10 Commission may issue a license to conduct a career school only after the applicant has presented
11 proof satisfactory to the commission that the applicant complies with applicable standards adopted
12 under ORS 345.325 and 670.280. For the purpose of this subsection, ORS 670.280 applies to individ-
13 uals who hold positions of authority or control in the operation of the school and to its faculty
14 members and agents.

15 (3) A career school licensed in any other state must be licensed in this state before establishing
16 a physical presence in this state such as offices or agents, or both, for the purpose of solicitation
17 of students.

18 (4) In determining whether to issue a license to a career school, the commission may consider
19 the prior history of the applicant in operating other career schools. The prior history of operating
20 other career schools includes, but is not limited to:

21 (a) Conduct by the applicant that is cause for probation of a licensee or for suspension or re-
22 vocation of a license as provided in ORS 345.120 [(2)] (3);

23 (b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to
24 345.450; and

25 (c) The history of the applicant in operating career schools in other states.

26 (5) The commission may not issue a license to or renew the license of a career school until the
27 applicant provides all of the following to the commission:

28 (a) A financial statement, certified true and accurate and signed by the owner of the school;

29 (b) Proof of compliance with the tuition protection policy established by the commission pursu-
30 ant to ORS 345.110; and

31 (c) Fingerprints of individuals as described in subsection (6) of this section.

32 (6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance
33 of a license or a renewal of a license must provide to the commission the fingerprints of faculty
34 members and agents of the school and individuals who hold positions of authority or control in the
35 operation of the school if the career school will be enrolling or does enroll persons under 18 years
36 of age.

37 (b) In addition to requirements provided under paragraph (a) of this subsection, the commission
38 may require a career school to provide the fingerprints of any agents of the school who will have
39 contact with persons under 18 years of age on behalf of the career school.

40 (c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this sub-
41 section if the commission has conducted a state or nationwide criminal records check on the person
42 within the three years preceding the date of the application.

43 (d) Fingerprints acquired under this subsection may be used only for the purpose of requesting
44 a state or nationwide criminal records check under ORS 181A.195.

45 (7) Notwithstanding ORS 345.325 (10), the commission may place a school on probation or deny,

1 suspend or revoke a license if the commission finds that an individual who holds a position of au-
2 thority or control in the operation of the school was convicted of a crime listed in ORS 342.143.

3 (8) The commission may issue a conditional license to a career school that meets the require-
4 ments of subsection (5) of this section but that does not comply with the applicable standards
5 adopted by rule under ORS 345.325. A conditional license issued under this subsection is effective
6 for a period prescribed by the commission, which may not exceed 90 days.

7 (9)(a) Except as provided in paragraph (b) of this subsection, a career school license is
8 nontransferable. The licensee must give 30 days of notice to the commission when transferring
9 ownership of a career school.

10 (b) The commission may transfer a career school license or allow the ownership of a career
11 school to transfer with less than 30 days of notice if:

12 (A) The owner of the school dies, is incapacitated or is incarcerated; or

13 (B) Other circumstances render the owner unable to operate the career school.

14 (10) Each career school shall display its license in a prominent place.

15 **SECTION 3.** ORS 345.995 is amended to read:

16 345.995. (1) After consultation with the advisory committee established under ORS 345.330, the
17 Higher Education Coordinating Commission shall adopt by rule a schedule or schedules establishing
18 the amount of civil penalty that may be imposed for a particular violation of ORS 345.010 to 345.450.
19 A civil penalty may not exceed \$500 per violation. The commission shall consult with the Attorney
20 General before adopting the schedule of penalties for violations of ORS 345.120 [(2)(d)] **(3)(d)**.

21 (2) In imposing a penalty for violation of ORS 345.010 to 345.450 pursuant to the schedule or
22 schedules authorized by this section, the commission shall consider the following factors:

23 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
24 necessary or appropriate to correct any violation.

25 (b) Any prior violations of ORS 345.010 to 345.450 or rules adopted pursuant thereto.

26 (c) The economic and financial conditions of the person incurring a penalty.

27 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and
28 conditions as the commission considers proper and consistent with the public welfare.

29 (4) The commission may impose penalties that may be remitted or mitigated on condition that
30 a particular violation not continue or occur after a certain period not to exceed 15 days.

31 (5) From each penalty recovered under this section, the commission may retain reasonable costs
32 related to the investigation and assessment of the penalty. This subsection does not apply to penal-
33 ties that are required to be deposited in the Tuition Protection Fund established under ORS 345.110.

34 **SECTION 4. The amendments to ORS 345.120 by section 1 of this 2017 Act apply to any**
35 **attempt to place a school, or a program within a school, on probation, or to suspend or re-**
36 **voke any approval given to a school under ORS 345.010 to 345.450, that occurs on or after the**
37 **effective date of this 2017 Act.**

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