

1 HB711
2 116555-2
3 By Representatives Baker (A), Faust, McMillan, Wren, Ison and
4 Gaston
5 RFD: Education Policy
6 First Read: 11-MAR-10

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8 SYNOPSIS: Under existing law, a private school is
9 defined as including both profit and nonprofit
10 entities and may apply for exemption from state
11 licensing requirements if in continuous operation
12 for 20 years or more as of April 29, 1980.

13 This bill would clarify the meaning of
14 profit and nonprofit as the terms relate to the
15 definition of a private school.

16 This bill would also change the baseline
17 exemption date from April 29, 1980, to January 1,
18 2004.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To amend Sections 16-46-1 and 16-46-3, Code of
25 Alabama 1975, relating to the regulation of private schools
26 and courses of instruction; to clarify the terms profit and
27 nonprofit as used in the definition of a private school; and

1 to change the baseline exemption date from April 29, 1980, to
2 January 1, 2004.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 16-46-1 and 16-46-3 of the Code
5 of Alabama 1975, are amended to read as follows:

6 "§16-46-1.

7 "For the purposes of this chapter, the following
8 words shall have the meanings respectively ascribed to them by
9 this section:

10 "(1) COURSE. Any course, or portion of a plan or
11 program of instruction, whether conducted in person, by mail,
12 or by any other method.

13 "(2) SCHOOL. Any person, group of people,
14 institution, establishment, agency, or organization offering
15 or administering a plan, course, or program of instruction
16 whether conducted in person, by mail, or by any other method.

17 "(3) PRIVATE SCHOOL. Operation of either profit or
18 nonprofit entity as opposed to publicly owned or operated
19 schools.

20 "(4) AGENT or REPRESENTATIVE. Salesperson who
21 presents materials, sells courses, or solicits students for
22 enrollment therefor in this state outside the boundaries of
23 the school facilities.

24 "(5) LICENSE. A private school license identifying
25 the name and location of the school and establishing the
26 courses which may be offered thereunder.

1 "(6) PERMIT. A pocket card issued to a
2 representative providing identification as an authorized agent
3 of a school.

4 "(7) ECONOMIC FRAUD. The sale of courses or programs
5 of study which an institution is unable or unwilling to
6 provide as advertised or described because of inadequate
7 financial stability, facilities, instructional staff, or
8 commitment to honor written or verbal contracts made with
9 students. Included is the solicitation of students for
10 enrollment through intentional deception or misrepresentation
11 of fact and the use of advertising which is known to be false,
12 inaccurate, or misleading. Failure to properly administer
13 student cancellation and refund policies according to
14 appropriate regulations or agreements made with students shall
15 also constitute economic fraud.

16 "(8) ACADEMIC FRAUD. Courses offered are
17 insufficient in quality, content, or administration to achieve
18 the stated or implied educational objective. Persons offering
19 such courses who know or reasonably should know that said
20 courses cannot achieve the stated or implied educational
21 objective shall be considered to be involved in academic
22 fraud.

23 "(9) RESIDENT PRIVATE SCHOOL. A school which is
24 domiciled within Alabama and has established for a period of
25 three years permanent administrative and management facilities
26 in this state.

1 "(10) PRINCIPAL BASE OF OPERATIONS. A school which
2 has established a main campus in Alabama. Administrative and
3 managerial support and physical plant facilities are
4 maintained continuously in this location. Franchises chartered
5 independently of parent corporations may be accorded this
6 status provided they comply with the residency requirements.

7 "(11) CHURCH SCHOOL. A school operated by a local
8 church, group of churches, denomination, and/or association of
9 churches on a nonprofit basis.

10 "§16-46-3.

11 "(a) This chapter shall not apply to any of the
12 following schools nor to any person in regard to the operation
13 of such schools, except for the conditions stated in this
14 section:

15 "(1) Schools operated on a nonprofit basis offering
16 only courses or programs of study in the performance of or
17 preparation for the ministry of any established church,
18 denomination, or religion.

19 "(2) Courses conducted by employers exclusively for
20 their employees and courses conducted by labor unions
21 exclusively for their members.

22 "(3) Schools offering instruction in grades K-12,
23 including the kindergarten, elementary, or secondary level and
24 operated by a parochial, denominational, or religious
25 organization, and/or as a ministry of a local church or group
26 of churches on a nonprofit basis.

1 "(4) Schools offering instruction in grades K-12,
2 including the kindergarten, elementary, or secondary level,
3 and operated by a community, educational organization, or
4 group of parents, organized as a nonprofit educational
5 corporation with the expectation of establishing a more
6 favorable environment for those in attendance.

7 "(5) Schools, colleges, and universities principally
8 operated and supported by the State of Alabama or its
9 political subdivisions.

10 "(6) Seminars and short courses sponsored or offered
11 by professional business, trade, or religious organizations
12 primarily for benefit of members thereof, or similar public
13 programs of training where the majority of the students have
14 at least half of their tuition and enrollment fees paid by
15 their employers, provided that evidence is supplied supporting
16 this exemption continuously over the preceding five years.

17 "(7) Any private school conducting resident courses
18 whose principal base of operation is within the State of
19 Alabama which has been in continuous operation for 20 years or
20 more as of ~~April 29, 1980~~ January 1, 2004, and that held
21 accreditation as of that date by an accrediting agency
22 recognized by the United States Department of Education.

23 "(8) Programs of study regulated by other state
24 boards, commissions, or agencies requiring school licensure
25 and/or performance bonding, except where the appropriate
26 regulatory agency requires a license under this chapter.

1 "(9) Any proprietary postsecondary institution
2 conducting resident courses that has been in operation within
3 Alabama for at least five years as of July 1, 2004, and that
4 is accredited by an accrediting agency recognized by the
5 United States Department of Education shall be accorded the
6 following provisions: Upon proof of such accreditation, such
7 schools shall be issued a license and representative permits
8 after required fees are paid to the Alabama Department of
9 Postsecondary Education. The requisite accreditation shall
10 satisfy the minimum standards of this chapter.

11 "(b) Any private school exempted in this section
12 shall retain the exempted status as long as the conditions of
13 exemption remain valid. An accredited private school or
14 program of study not elsewhere exempted whose accreditation is
15 withdrawn, suspended, or revoked shall forfeit its exemption
16 status until the grant of accreditation is restored. Due
17 process of the accrediting agency shall be allowed prior to
18 withdrawal of an exemption. Schools having accreditation
19 withheld as a result of transfer of ownership shall be allowed
20 a period of time to regain the grant in accordance with the
21 appropriate accrediting agency regulations.

22 "(c) An exemption pursuant to this section shall not
23 be construed to constitute approval or endorsement by the
24 State of Alabama for any purpose.

25 "(d) Exempted private schools may voluntarily
26 request to be licensed without surety as described in Sections
27 16-46-5 and 16-46-6.

1 "(e) Private schools which cease operations shall
2 place the student academic, attendance, and financial aid
3 records in the office of the appropriate school administrator
4 where a repository shall exist to safeguard and to make
5 available these records to authorized persons upon request as
6 follows:

7 "(1) Schools which merge, consolidate, or undergo
8 change of ownership shall deposit with the continuing school.

9 "(2) Schools which are a part of a system,
10 organization, franchise, or a ministry of a local church or a
11 group of churches shall deposit with the administrative office
12 thereof if such is to remain in operation.

13 "(3) Elementary and secondary schools without system
14 support shall deposit with the superintendent of the public
15 county or city within whose district the school is located.

16 "(4) Postsecondary, higher, and others not elsewhere
17 designated shall deposit with the Alabama Department of
18 Postsecondary Education."

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.