

SUBJECT: Exempting certain courses from proprietary school regulations

COMMITTEE: Economic Development — committee substitute recommended

VOTE: 7 ayes — Solis, Clark, Deshotel, Homer, Luna, Seaman, Yarbrough
0 nays
2 absent — Keffer, McClendon

SENATE VOTE: On final passage, April 4 — voice vote

WITNESSES: For — Greg Duncan and Janet McQuaid, Pryor Resources
Against — None
On — Joseph Michael DeLong, Texas Workforce Commission

BACKGROUND: Education Code, chapter 132 defines a proprietary school as a business that offers courses or training for a business, trade, technical, or industrial occupation or for avocational or personal improvement. Proprietary schools are regulated by the Texas Workforce Commission (TWC). Chapter 132 establishes a consumer protection policy for students of proprietary schools, including refund policies. Certain schools are exempt from these regulations, such as nonprofit schools owned and operated by religious or charitable institutions; employer training courses; courses for plumbing, electrical, or air conditioning licenses; and courses otherwise regulated by law.

DIGEST: CSSB 1205 would exempt from regulation certain occupational continuing-education courses or courses designed to teach recreational or avocational subjects. These courses would have to meet criteria regarding course length, cost, refund policies, and recordkeeping. The exemption would not extend to courses related to certain technical codes, such as electrical or fire codes, applicable to construction, repair, or improvement of real property.

A course would be eligible for exemption only if it offered no more than 24 hours of classroom instruction and charged less than \$500. A course that

awarded credits or units toward the completion of another course with more than 24 classroom hours would be ineligible for the exemption.

To be exempt, a course offeror would have to make available to a person enrolled in the course a written description of the course content and any refund policy at least 14 days before the course began. Refunds would have to be granted upon a written request if a person no longer was interested in taking the course due to a change in the instructor or in the instructor's qualifications or had completed the lesser of eight hours or one-half of the course and was dissatisfied with the course. Course offerors would have to maintain records of the registrants' attendance, fees paid, refunds paid, and instructor qualifications as compared to advertised qualifications for at least three years. TWC could request these records for inspection, and failure to produce them would create a rebuttable legal presumption that the course was not exempt from regulation.

The bill would take effect September 1, 2001, and would only apply to a course of instruction beginning on or after that date.

**SUPPORTERS
SAY:**

CSSB 1205 would ease the burden on businesses that provide short, inexpensive career-enhancement courses that never were intended to be regulated as proprietary schools. Regulations in the Education Code were designed for extended courses that prepare a person to enter a field, which may charge thousands of dollars and take several weeks or months to complete — not for short career-enhancement courses, which typically last only one to three days and emphasize skills such as effective communication or conflict management. CSSB 1205 would return the statute to its original purpose by exempting these short, inexpensive courses from the regulations for proprietary schools.

Applying for a proprietary school license is costly and time-consuming. The applicant must provide details on every course and must describe the background of every instructor. Every course location and instructor is subject to a licensing fee. This is a major burden on private companies that offer short, inexpensive courses, and it forces these companies to raise their prices or discourages them from offering courses altogether. Exempting these courses would lower costs not only for businesses but also for people seeking help to enhance their career skills.

Proprietary school regulations are intended to protect consumers from deception, fraud, or substandard education. The possibility that the type of instruction that CSSB 1205 would exempt would be subject to fraud is remote. These businesses have every incentive to provide reputable training, since these companies depend on a satisfied clientele to provide positive word of mouth and to attract new business. Moreover, the bill would specify refund policies that a business would have to offer, including a refund merely because a customer was dissatisfied with the course after a reasonable trial period. These measures would ensure that consumers are protected.

OPPONENTS
SAY:

CSSB 1205 would reduce consumer safeguards for short career-enhancement courses. Although these businesses would have to offer and keep records of refunds, they would not have to track the number of refunds requested or denied. The bill would not define a reasonable request for a refund, allowing the business itself to determine reasonableness. Moreover, people should not have to waste their time sitting through at least eight hours of a course to receive a refund if they determined after an hour or two that the course was not what they had expected or would not be useful to their careers.

NOTES:

The committee substitute added several provisions to the Senate engrossed version, including requiring course offerors to provide a refund for people who were dissatisfied with the course and who met certain requirements; specifying that a business that only offered courses that were exempt from chapter 132 also would be exempt from the chapter; and excluding from the exemption courses related to certain technical codes for building purposes.