

CHAPTER 132
SB 221 – FINAL VERSION

02/13/14 0509s

2014 SESSION

14-2634
04/01

SENATE BILL **221**

AN ACT relative to private postsecondary career schools and relative to the authority of the board of barbering, cosmetology, and esthetics.

SPONSORS: Sen. Stiles, Dist 24; Sen. D'Allesandro, Dist 20; Sen. Reagan, Dist 17; Rep. Abrami, Rock 19; Rep. Shaw, Hills 16; Rep. Ladd, Graf 4

COMMITTEE: Health, Education and Human Services

AMENDED ANALYSIS

This bill authorizes the higher education commission to regulate and adopt rules for private postsecondary career schools, amends the definition of a private postsecondary career school and the exceptions from that definition, and authorizes the higher education commission to adopt rules to establish fees for consultants, investigations of complaints, and other enforcement actions relating to the administration of private postsecondary career schools. The bill also authorizes the board of barbering, cosmetology, and esthetics to license a school to operate postsecondary programs, including postsecondary programs leading to a certificate in barbering, cosmetology, or esthetics.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to private postsecondary career schools and relative to the authority of the board of barbering, cosmetology, and esthetics.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 132:1 Division of Higher Education; Higher Education Commission. Amend RSA 21-N:8-a, II(e)
2 to read as follows:

3 (e) The commission shall:

4 (1) Regulate institutions of higher education pursuant to RSA 292:8-b through
5 RSA 292:8-kk. The commission may accept accreditation by a recognized accrediting association in
6 place of its own independent evaluation.

7 (2) ***Regulate private postsecondary career schools pursuant to RSA 188-G.***

8 (3) Administer financial aid programs as provided in state and federal law for
9 students attending higher education institutions, except as otherwise provided by law.

10 [~~(3)~~] (4) Apply for, accept, and expend state, federal, or other grants.

11 [~~(4)~~] (5) Oversee the functions of the Veterans Education Services as authorized by
12 Congress.

13 [~~(5)~~] (6) Establish and collect reasonable annual fees related to the performance of
14 statutory duties.

15 [~~(6)~~] (7) Enter into cooperative interstate or international agreements to further
16 operating efficiencies, student access, and educational opportunities.

17 [~~(7)~~] (8) Be the designee for the integrated postsecondary education data system as
18 developed by the United States Department of Education.

19 [~~(8)~~] (9) Adopt rules, pursuant to RSA 541-A relative to:

20 (A) Organization and operation of the higher education commission established
21 in this section.

22 (B) Approval and regulation of institutions of higher education pursuant to
23 RSA 292:8-b through RSA 292:8-kk.

24 (C) ***Approval and regulation of private postsecondary career schools***
25 ***pursuant to RSA 188-G.***

26 (D) Administration of financial aid programs for institutions of higher education,
27 except as otherwise provided by law.

28 [~~(D)~~] (E) Establishment and collection of reasonable fees for functions performed
29 by the division of higher education and the higher education commission as required in this section.

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1 ~~(9)~~ **(10)** Assume other responsibilities as may be provided in state or federal law.

2 132:2 Higher Education Corporations; Reports Required. Amend RSA 292:8-kk, II to read as
3 follows:

4 II. All transcript request fees collected by the commission under this section shall be
5 deposited into the higher education fund established in RSA 21-N:8-a, III ***and shall be used for***
6 ***managing the storage and retrieval of closed school transcripts.***

7 132:3 Private Postsecondary Career Schools; Definitions. RSA 188-G:1 is repealed and
8 reenacted to read as follows:

9 188-G:1 Definitions; Exclusions.

10 I. In this chapter:

11 (a) “Alternative delivery” means a mode of instruction which does not involve face-to-
12 face instruction between instructor and student in the same geographic location. This mode of
13 instruction shall include Internet, televised, video, telephonic, and correspondence media.

14 (b) “Conference” or “seminar” means a scheduled meeting of 2 or more persons for
15 discussing matters of common concern and where, if training or education is offered, it shall be
16 incidental to the purpose of the conference.

17 (c) “Commission” means the higher education commission established in RSA 21-N:8-a, II.

18 (d) “Commissioner” means the commissioner of the department of education.

19 (e) “Director” means the director of the division of higher education in the department of
20 education.

21 (f) “Division” means the department of education, division of higher education.

22 (g) “Entity” means any individual, firm, partnership, association, company, corporation,
23 organization, trust, school, or other legal entity or combination of these entities.

24 (h) “Physical presence” means a physical location for instructional purposes,
25 maintaining an administrative office, including a mailing address or phone number, or face-to-face
26 advising, mentoring, supervision, testing, or instruction taking place in New Hampshire.

27 (i) “Private postsecondary career school” means any for-profit or nonprofit postsecondary
28 career entity maintaining a physical presence in this state providing education or training for tuition
29 or a fee that enhances a person’s occupational skills, or provides continuing education or
30 certification, or fulfills a training or education requirement in one’s employment, career, trade,
31 profession, or occupation. Schools that offer resident or nonresident programs, including programs
32 using modes of alternative delivery, beyond the secondary school level to an entity shall be included
33 in this definition regardless of the fact that the school’s tuition and fees from education and training
34 programs constitute only a part of the school’s revenue.

35 (j) “Workshop” means a brief, intensive education or training program that focuses on
36 developing techniques and skills in a particular area.

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- 1 II. In this chapter, “private postsecondary career school” shall not include:
- 2 (a) Schools authorized to grant degrees pursuant to RSA 292.
- 3 (b) Schools specifically licensed as an education or training school by a state agency
- 4 other than the commission.
- 5 (c) Schools operated by a business organization exclusively for the training of that
- 6 business' own employees and at no charge to its employees.
- 7 (d) Schools offering noncredit courses exclusively for avocational purposes.
- 8 (e) Schools established, operated, and governed by the state of New Hampshire or any of
- 9 its political subdivisions, or any other state or its political subdivisions.
- 10 (f) Noncredit courses or programs sponsored by recognized trade, business, or
- 11 professional organizations solely for the instruction of their members that do not prepare or qualify
- 12 individuals for employment in any occupation or trade.
- 13 (g) Schools that offer programs and courses exclusively on federal military installations.
- 14 (h) Entities that offer training at seminars, workshops, or conferences, if:
- 15 (1) Any training or education offered is incidental to the purpose of the seminar,
- 16 workshop, or conference; and
- 17 (2) The attendee receiving the training is not awarded any form of a certificate,
- 18 diploma, or credit including continuing education units for having received the training.
- 19 (i) An entity training students under 14 C.F.R. part 91 or 14 C.F.R. part 141, or
- 20 receiving flight or ground instruction required by the Federal Aviation Administration.
- 21 (j) Entities that license software, the content of which is focused on training or
- 22 education, if the entity:
- 23 (1) Is primarily engaged in the business of licensing software;
- 24 (2) Licenses its software primarily to other legal entities, and not directly to an end
- 25 user or individual student;
- 26 (3) Does not confer degrees, diplomas, continuing education units, or any other form
- 27 of credit in connection with the software it licenses;
- 28 (4) Is not accredited and does not seek accreditation in connection with the software
- 29 it licenses or the content it offers; and
- 30 (5) Does not offer an admissions process, financial aid, career advice, or job
- 31 placement in connection with the software it licenses.
- 32 (k) Entities offering only training courses at a total cost, including tuition and all other
- 33 fees and charges, of not more than \$800 per course for which no payment, including a deposit, is
- 34 required or collected prior to the first day of the course. This subparagraph shall not apply to
- 35 entities that use alternative delivery methods.

36 132:4 Private Postsecondary Career Schools; Licenses and Fees. Amend RSA 188-G:2, IV to

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1 read as follows:

2 IV. The commission shall adopt rules pursuant to RSA 541-A to establish reasonable *fees*,
3 fines, reimbursement rates for consultants, and procedures for complaint investigations and
4 enforcement actions, which are necessary for the administration of this chapter.

5 132:5 Board of Barbering, Cosmetology, and Esthetics; Duties. Amend RSA 313-A:7 to read as
6 follows:

7 313-A:7 Duties.

8 **I.** The board shall:

9 ~~[I.]~~ **(a)** Prescribe the duties of its officers and employees, which shall be at all times subject
10 to the direction and supervision of the department of health and human services;

11 ~~[II.]~~ **(b)** Establish a principal office, at which all records and files of the board shall be kept;

12 ~~[III-a.]~~ **(c)** Maintain a telephone line or an electronic mail address for the purpose of
13 accepting consumer complaints;

14 ~~[III.]~~ **(d)** Keep a record of its proceedings;

15 ~~[IV.]~~ **(e)** Report to proper prosecuting officers all violations of this chapter coming within its
16 knowledge;

17 ~~[V.]~~ **(f)** Make a written report biennially to the governor and council containing a full and
18 complete account of all its official acts during the biennium, together with a statement of receipts
19 and disbursements and such comments as it deems necessary; and

20 ~~[VI.]~~ **(g)** Establish fees for examination of applicants, for licenses, and for renewal of licenses
21 to practice under this chapter and for transcribing and transferring records and other services.

22 **II. The board may license a school to operate postsecondary programs, including**
23 **postsecondary programs leading to a certificate in barbering, cosmetology, or esthetics.**

24 132:6 Effective Date. This act shall take effect upon its passage.

25 Approved: June 16, 2014

26 Effective Date: June 16, 2014