



General Assembly

Substitute Bill No. 1139

January Session, 2007

* _____SB01139HEDJUD031307_____*

**AN ACT CONCERNING ENHANCED ENFORCEMENT AUTHORITY BY
THE DEPARTMENT OF HIGHER EDUCATION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10a-34 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2008*):

3 (a) For the purposes of this section, "program of higher learning"
4 means any course of instruction for which it is stated or implied that
5 college or university-level credit may be given or may be received by
6 transfer; "degree" means any letters or words, diploma, certificate or
7 other symbol or document which signifies satisfactory completion of
8 the requirements of a program of higher learning; "institution of higher
9 learning" means any person, school, board, association, limited liability
10 company or corporation which is licensed or accredited to offer one or
11 more programs of higher learning leading to one or more degrees;
12 "license" means the authorization by the Board of Governors of Higher
13 Education to operate a program or institution of higher learning for a
14 specified initial period; "accreditation" means the authorization by said
15 board to continue operating a program or institution of higher learning
16 for subsequent periods, and in such periods to confer specified
17 degrees.

18 (b) The Board of Governors of Higher Education shall establish

19 regulations concerning the requirements for licensure and
20 accreditation, such regulations to concern administration, finance,
21 faculty, curricula, library, student admission and graduation, plant and
22 equipment, records, catalogs, program announcements and any other
23 criteria pertinent thereto, as well as the periods for which licensure and
24 accreditation may be granted, and the costs and procedures of
25 evaluations as provided in subsections (c) and (d) [below] of this
26 section. Said board may establish an advisory council for accreditation
27 composed of representatives of public and private institutions of
28 higher learning and the public at large to advise the board regarding
29 existing or proposed regulations.

30 (c) No person, school, board, association or corporation shall confer
31 any degree unless authorized by act of the General Assembly. No
32 application for authority to confer any such degree shall be approved
33 by the General Assembly or any committee thereof, nor shall any such
34 authority be included in any charter of incorporation until such
35 application has been evaluated and approved by the Board of
36 Governors of Higher Education in accordance with regulations
37 established by said board.

38 (d) No person, school, board, association or corporation shall
39 operate a program or institution of higher learning unless it has been
40 licensed or accredited by the Board of Governors of Higher Education,
41 nor shall it confer any degree unless it has been accredited in
42 accordance with this section. The board shall not grant any new license
43 or accreditation until it has received a report of an evaluation of such
44 program or institution by competent educators approved by the board.
45 The Board of Governors of Higher Education shall accept regional or,
46 where appropriate, national accreditation, in satisfaction of the
47 requirements of this subsection unless the board finds cause not to rely
48 upon such accreditation.

49 (e) No person, school, board, association or corporation shall use in
50 any way the term "junior college" or "college" or "university" or use
51 any other name, title, literature, catalogs, pamphlets or descriptive

52 matter tending to designate that it is an institution of higher learning,
53 or that it may grant academic or professional degrees, unless the
54 institution possesses a license from, or has been accredited by, the
55 board, nor shall offer any program of higher learning without
56 approval of the Board of Governors of Higher Education.

57 (f) Accreditation of any program or institution or authority to award
58 degrees granted in accordance with law prior to July 1, 1965, shall
59 continue in effect.

60 [(g) Any person, school, board, association or corporation violating
61 any provision of this section shall be fined not more than one thousand
62 dollars.]

63 [(h)] (g) If an existing institution, adversely affected by this section,
64 applies to the board for licensure or accreditation, said board may
65 grant licensure on a temporary basis to expire within one year and
66 renewable from year to year, if, in the judgment of the board,
67 reasonable progress is being made by such institution toward meeting
68 the standards required by regulations of the board.

69 Sec. 2. (NEW) (*Effective January 1, 2008*) (a) The Commissioner of
70 Higher Education may assess any person, board, partnership,
71 association, corporation, limited liability company or other entity
72 which violates any provision of section 10a-34 of the general statutes,
73 as amended by this act, or section 10a-35 of the general statutes an
74 administrative penalty in an amount not to exceed five hundred
75 dollars for each day of such violation.

76 (b) (1) The Commissioner of Higher Education shall serve written
77 notice upon the person, board, partnership, association, corporation,
78 limited liability company or other entity when the assessment of such
79 an administrative penalty is under consideration. The notice shall set
80 forth the reasons for the assessment of the penalty.

81 (2) Not later than seven days after receipt of notice pursuant to
82 subdivision (1) of this subsection, the person, board, partnership,

83 association, corporation, limited liability company or other entity may
84 file a written request for administrative review by the commissioner or
85 the commissioner's designee. If no request is filed, the commissioner or
86 the commissioner's designee shall schedule a compliance conference
87 pursuant to subdivision (6) of this subsection.

88 (3) Not later than forty-five days after the commissioner or the
89 commissioner's designee receives a request for review pursuant to
90 subdivision (2) of this subsection, the commissioner or the
91 commissioner's designee shall complete an administrative review and
92 give written notice of the determination of the review to such person,
93 board, partnership, association, corporation, limited liability company
94 or other entity. If the commissioner or commissioner's designee
95 determines after such review that a violation of sections 10a-34 of the
96 general statutes, as amended by this act, or 10a-35 of the general
97 statutes occurs, the commissioner or commissioner's designee shall
98 schedule a compliance conference pursuant to subdivision (6) of this
99 subsection.

100 (4) Not later than fourteen days after such person, board,
101 partnership, association, corporation, limited liability company or
102 other entity receives notice of the determination that a violation
103 occurred pursuant to subdivision (3) of this subsection, the person,
104 board, partnership, association, corporation, limited liability company
105 or other entity may appeal in writing to the Board of Governors of
106 Higher Education, setting forth the reasons why the penalty is not
107 proper.

108 (5) Not later than twenty business days after the board of governors
109 receives the request for an appeal pursuant to subdivision (4) of this
110 subsection, the board of governors shall hold a hearing which shall be
111 conducted pursuant to the provisions of chapter 54 of the general
112 statutes and provide notice of the decision.

113 (6) (A) If no administrative review is requested, not later than forty-
114 five days after the commissioner or the commissioner's designee mails

115 notice pursuant to subdivision (1) of this subsection to such person,
116 board, partnership, association, corporation, limited liability company
117 or other entity, the commissioner or the commissioner's designee shall
118 hold a compliance conference with such person, board, partnership,
119 association, corporation, limited liability company or other entity.

120 (B) If an administrative review is requested and if after an appeal
121 pursuant to subdivision (4) is made and a determination is made
122 pursuant to subdivision (3) of this subsection that (i) a violation
123 occurred, not later than forty-five days after the commissioner or the
124 commissioner's designee mails notice pursuant to subdivision (1) of
125 this subsection to such person, board, partnership, association,
126 corporation, limited liability company or other entity, the
127 commissioner or the commissioner's designee shall hold a compliance
128 conference with such person, board, partnership, association,
129 corporation, limited liability company or other entity, or (ii) a violation
130 did not occur, not later than forty-five days after the commissioner or
131 the commissioner's designee mails notice pursuant to subdivision (1)
132 of this subsection to such person, board, partnership, association,
133 corporation, limited liability company or other entity, the
134 commissioner or the commissioner's designee shall notify such person,
135 board, partnership, association, corporation, limited liability company
136 or other entity of the decision of compliance.

137 (c) If, after the compliance conference pursuant to subsection (b) of
138 this section, the commissioner determines that imposition of the
139 administrative penalty is appropriate, the commissioner shall issue an
140 order and serve written notice by certified mail, return receipt
141 requested upon the person, board, partnership, association,
142 corporation, limited liability company or other entity.

143 (d) The person, board, partnership, association, corporation, limited
144 liability company or other entity aggrieved by the order of the
145 commissioner imposing an administrative penalty pursuant to
146 subsection (c) of this section shall, not later then fifteen days after such
147 order is mailed, request, in writing, a hearing before the Board of

148 Governors of Higher Education. Such hearing shall be held in
149 accordance with the provisions of chapter 54 of the general statutes.

150 Sec. 3. (NEW) (*Effective January 1, 2008*) The Commissioner of Higher
151 Education, through the Attorney General, may seek an order from the
152 superior court to prevent any violation of section 10a-34 of the general
153 statutes, as amended by this act, and section 10a-35 of the general
154 statutes through the use of an injunction in accordance with the
155 provisions of chapter 916 of the general statutes.

156 Sec. 4. (NEW) (*Effective January 1, 2008*) The Commissioner of Higher
157 Education, or the commissioner's designee, may conduct an
158 investigation and, through the Attorney General, maintain an action in
159 the name of the state against any person, board, partnership,
160 association, corporation, limited liability company or other entity to
161 restrain or prevent the establishment or operation of an institution that
162 is not licensed, accredited or authorized to award degrees by the Board
163 of Governors of Higher Education pursuant to the provisions of
164 section 10a-34 of the general statutes, as amended by this act.

165 Sec. 5. (NEW) (*Effective January 1, 2008*) The Board of Governors of
166 Higher Education or the Commissioner of Higher Education, through
167 the Attorney General, may petition the superior court for the judicial
168 district of Hartford for the enforcement of any order issued by the
169 board or the commissioner, and for other appropriate relief. The court
170 may issue such orders as are appropriate to aid in enforcement.

171 Sec. 6. (NEW) (*Effective January 1, 2008*) The Commissioner of Higher
172 Education, or the commissioner's designee, may conduct any necessary
173 review, inspection or investigation regarding applications for licensure
174 or accreditation or possible violations of section 10a-34 of the general
175 statutes, as amended by this act, and sections 2 to 6, inclusive, of this
176 act or of any applicable regulations of Connecticut state agencies. In
177 connection with any investigation, the commissioner or the
178 commissioner's designee, may administer oaths, issue subpoenas,
179 compel testimony and order the production of any record or

180 document. If any person refuses to appear, testify or produce any
181 record or document when so ordered, the commissioner may seek
182 relief pursuant to section 5 of this act.

183 Sec. 7. (NEW) (*Effective July 1, 2007*) The Board of Governors of
184 Higher Education shall adopt regulations in accordance with the
185 provisions of chapter 54 of the general statutes in order to carry out the
186 provisions of sections 2 to 6, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2008</i>	10a-34
Sec. 2	<i>January 1, 2008</i>	New section
Sec. 3	<i>January 1, 2008</i>	New section
Sec. 4	<i>January 1, 2008</i>	New section
Sec. 5	<i>January 1, 2008</i>	New section
Sec. 6	<i>January 1, 2008</i>	New section
Sec. 7	<i>July 1, 2007</i>	New section

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Joint Favorable Subst. C/R

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