

Date of Hearing: April 8, 2025

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 714 (Fong) – As Introduced February 14, 2025

[Note: This bill is double-referred to the Assembly Committee on Business and Professions and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: California Private Postsecondary Education Act of 2009: exemptions: commercial driving licenses

SUMMARY: Provides that an existing exemption from the California Private Postsecondary Education Act of 2009 (Act) for institutions that do not award degrees and that solely provide educational programs for total charges of \$2,500 or less does not apply to institutions that provide any training or curriculum for Class A, B, or C commercial driving licenses (CDL). Specifically, **this bill:**

- 1) Specifies that institutions that provide any training or curriculum for Class A, B, or C commercial driving licenses (CDL) are not eligible for an existing exemption from provisions of the Act, specifically an exemption for an institution that does not award degrees and that solely provides educational programs for total charges of \$2,500 or less, as provided.
- 2) Finds and declares that:
 - a) California's highways and freeways are some of the busiest thoroughfares in the nation;
 - b) California's highways and freeways collectively serve as some of the busiest goods movement corridors in the country; and,
 - c) According to the National Safety Council's (NSC) Injury Facts, there were 421 fatal truck accidents in California in 2022, the second most fatalities in the country, behind only Texas.

EXISTING LAW:

- 1) Establishes the Act, until January 1, 2027, and requires the Bureau on Private Postsecondary Education (BPP) to, among other things, review, investigate and approve private postsecondary institutions, programs and courses of instruction pursuant to the Act and authorizes BPPE to take formal actions against an institution/school to ensure compliance with the Act and even seek closure of an institution/school if determined necessary. The Act requires unaccredited degree granting institutions to be accredited by an accrediting agency recognized by the United States Department of Education. The Act also provides for specified disclosures and enrollment agreements for students, requirements for cancellations, withdrawals and refunds, and that the BPPE shall administer the Student Tuition Recovery Fund (STRF) to provide refunds to students affected by the possible closure of an institution/school. (Education Code (EDC) Section 94800 et seq.)
- 2) Provides numerous exemptions from the Act and oversight by BPPE, including, but not limited to:

- a) An institution that does not award degrees and that solely provides educational programs for total charges of \$2,500 dollars or less when no part of the total charges is paid from state or federal student financial aid programs. Specifies that the BPPE may adjust this cost threshold based upon the California Consumer Price Index and post notification of the adjusted cost threshold on its internet website as the bureau determines, through the promulgation of regulations, that the adjustment is consistent with the intent of the Act. (EDC Section 94874(f))

FISCAL EFFECT: Unknown.

COMMENTS: *Purpose.* According to the author, “every day, millions of Californians share the road with large trucks that, while crucial to our economy, pose risks we must continually try to mitigate. In 2022, we experienced 436 traffic fatalities involving large trucks – the second highest in the nation and averaging more than one per day. This is unacceptable and we must continue to identify and address all potential causes – including weaknesses in driver training. Currently programs that offer commercial driving training for less than \$2,500 are exempt from regulation intended to ensure quality of education.”

Additionally, the author states that “AB 714 closes an unintended legal loophole, increases road safety, and protects students and drivers. This bill will remove commercial driving programs from being exempted from basic regulation. BPPE’s founding statute proclaims that protection of the public shall be the bureau’s highest priority. AB 714 allows the BPPE to better fulfill its mandate, improve commercial driving training, and protect Californians by reducing large truck fatalities.”

BPPE. AB 48 (Portantino, Chapter 310, Statutes of 2009) established the BPPE after several failed legislative attempts to remedy the structural challenges of the former Bureau for Private Postsecondary and Vocational Education. AB 48 took effect January 1, 2010, and provided the BPPE responsibility for oversight of private postsecondary educational institutions operating with a physical presence in California. While the Legislature has amended the Act several times since the initial passage of AB 48, it has consistently directed BPPE to make protection of the public the highest priority in performing duties and exercising powers. Today, the Act expresses Legislative intent that BPPE:

- 1) Ensure minimum educational quality standards and opportunities for success for California students attending private postsecondary schools in California.
- 2) Provide meaningful student protections through essential avenues of recourse for students.
- 3) Establish a regulatory structure that provides an appropriate level of oversight.
- 4) Provide a regulatory structure that ensures all stakeholders have a voice and are heard in policymaking by the BPPE.
- 5) Ensure accountability and oversight by the Legislature through program monitoring and periodic reports.
- 6) Prevent harm to students and the deception of the public that results from fraudulent or substandard educational programs and degrees.

BPPE also actively investigates and combats unlicensed activity, administers the STRF, and conducts outreach and education activities for students and private postsecondary educational institutions within the state. Within BPPE exists the Office of Student Assistance and Relief, established by SB 1192 (Hill, Chapter 593, Statutes of 2016), which exists to advance the rights of students at private postsecondary educational institutions and assist students who have suffered economic loss due to unlawful activities or the closure of an institution.

The exemptions in the Act, and attempts to create additional exemptions, have been an ongoing source of consideration for the Legislature.

Action taken by the US Department of Education in 2010 aimed at improving the integrity of programs authorized under Title IV of the Higher Education Act requires, among other things, that to remain eligible for Title IV, postsecondary education institutions must be authorized to operate in the state they are located and must ensure access to a complaint process that will permit student consumers to address alleged violations of state consumer protection laws. These changes rendered independent institutions of higher education, exempt from Bureau oversight and regulation under the Act by virtue of being accredited by a regional accrediting agency, potentially unable to meet the state authorization and complaints process requirements for Title IV. In response, the Department of Finance issued a Spring Finance Letter in May 2015 that proposed statutory changes allowing independent institutions of higher education to be recognized by the state and to enter into a contract with BPPE to establish a state-level student complaint process. The BPPE subsequently entered into contracts with over 100 institutions in 2015.

A number of institutions previously verified as exempt under the Act have now sought voluntary approval by BPPE to comply with federal Title IV requirements.

Trucking background. The Federal Motor Carrier Safety Administration (FMCSA) Entry Level Driver Training (ELDT) regulations set the baseline for training requirements for entry-level drivers. This applies to those seeking to:

- 1) Obtain a Class A or Class B Commercial Driver's License (CDL) for the first time;
- 2) Upgrade an existing Class B CDL to a Class A CDL; or
- 3) Obtain a school bus (S), passenger (P), or hazardous materials (H) endorsement for the first time.

The ELDT regulations are not retroactive; individuals who were issued a CDL or an S, P, or H endorsement prior to February 7, 2022 are not required to complete training for the respective CDL or endorsement.

A Class A CDL is required for any legal combination of vehicles with a gross combination weight rating (GCWR) of 26,001 pounds or more, provided the gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of 10,000 pounds.

A Class B CDL is required for any single vehicle with a GVWR of more than 26,000 pounds, any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR, or a 3-axle vehicle weighing over 6,000 pounds.

A Class C CDL is required for any Class C vehicle with one or more of the following endorsements: hazardous materials (HazMat), passenger vehicle (PV), or tank vehicle (TV).

For Class A, B, and C FMCSA training there are no required minimum instruction hours for theory training, but the instructor must cover all the topics in the curriculum. Training providers must use assessments (in written or electronic format) to determine if trainees are proficient in all units of the theory curriculum. Students must earn a minimum overall score of 80 percent on the theory assessment(s).

For Class A, B, and C FMCSA training there is here are no required minimum instruction hours for behind the wheel range and public road training, but the instructor must cover all topics set forth in the BTW range curriculum. The instructor must document the total number of clock hours (one clock hour for each 60 minutes of instruction) each trainee takes to complete the BTW range curriculum. The instructor must document that each trainee is proficient in all elements of the BTW range curriculum for the trainee to successfully complete these requirements.

According to information provided by the sponsor, “The industry standard for minimum training hours for a Commercial Driver’s License in just about every state is 160 hours. It would be impossible to complete the minimum CDL training required training as mandated by the Federal ELDT training rules in less than 160 hours. Per the BPPE, the average tuition for licensed CDL training providers is \$6,000 to \$7,000 due to the training intensity required.”

Arguments in support. The California Association of Highway Patrolmen (CAHP), a co-sponsor of this measure, wrote that “According to the National Highway Traffic Safety Administration’s Fatality Analysis Reporting System, there were 436 heavy truck fatalities in California in 2022, the second highest in the nation. California averages more than one death per day as a result of trucking accidents, demonstrating the need for improved driver training. AB 714 would remove a loophole and require all heavy truck driving education programs to be [approved] by the [BPPE]. The CAHP believes that education and proper training are basic and critical elements to improve driver safety, especially for truck drivers.”

Prior and related legislation. SB 1449 (Newman) of 2024, would have expanded on the existing exemption for law schools from regulation under the Act and oversight by the BPPE by authorizing exempt law schools to execute a contract with BPPE to handle complaints processing. SB 1449 (Newman) was held on suspense in the Assembly Committee on Appropriations.

SB 802 (Roth), Chapter 552, Statutes of 2021, revises definitions, clarifies that institutions cannot qualify for the trade or fraternal organization exemption by sponsoring their own educational programs, allows the bureau to extend the accreditation deadlines under certain conditions, clarifies the bureau’s authority to suspend an institution’s educational programs and approval to operate, expands the types of changes requiring bureau approval to include changes to educational programs related to clock and credit hours or distance learning, and those relating to an institution’s participation in certain federal student aid programs.

AB 70 (Berman), Chapter 153, Statutes of 2020, prohibits the Bureau from approving an exemption or handling complaints for a nonprofit institution that the Attorney General determines does not meet specified criteria of a nonprofit corporation. The BPPE should inform the Committees about efforts being undertaken with the Office of the Attorney General to implement this law.

AB 1344 (Bauer-Kahan), Chapter 520, Statutes of 2019, requires that out-of-state institutions registering with the BPPE, either at the time of registration, or within 30 days if currently registered, to notify the BPPE if specific actions are taken against the institution. Currently registered institutions will be required to submit a written statement as to why they should be allowed to continue enrolling California students. This bill allows the BPPE to take action against the institution based on consultation with the Attorney General.

AB 1340 (Chiu), Chapter 519, Statutes of 2019, requires the Bureau to collect loan data for all graduates and reconcile the information with wage data from Employment Development Department (EDD). The BPPE would be required to post a Labor Market report of institutions and programs, on the BPPE website. At minimum, the report would include loan and income statistics at two and five years from graduation. The BPPE would also share data with EDD for the federal Workforce Innovation and Opportunity Act compliance.

SB 1192 (Hill), Chapter 593, Statutes of 2016, extended the sunset for the BPPE and made numerous changes.

AB 509 (Perea) Chapter 558, Statutes of 2015 created an exemption from the Act and related oversight by the Bureau for a bona fide organization, association, or council that offers pre-apprenticeship training programs, on behalf of one or more Division of Apprenticeship Standards approved apprenticeship programs.

SB 619 (Fuller, Chapter 309, Statutes of 2011 exempted flight instructors or flight schools from Bureau regulation if they do not require the upfront payment of tuition or fees, and that do not require students to enter into a contract of indebtedness in order to receive training.

AB 797 (Conway) of 2011 would have exempted schools of cosmetology, as defined, from the Act. This bill was held in Assembly Committee on Higher Education.

AB 48 (Portantino) Chapter 310, Statutes of 2009 established the Bureau for Private Postsecondary Education (BPPE) and the California Private Postsecondary Educational Act.

REGISTERED SUPPORT / OPPOSITION:

Support

160 Driving Academy (Sponsor)
California Association of Highway Patrolmen
California Chamber of Commerce
California Teamsters Public Affairs Council
California Trucking Association

Opposition

None on file

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