

SENATE BILL 110

F2

4lr0072

(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Higher Education Commission)**

Requested: October 15, 2013

Introduced and read first time: January 8, 2014

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2014

CHAPTER _____

1 AN ACT concerning

2 **Institutions of Higher Education – Fully Online Distance Education –**
3 **Registration and Fees**

4 FOR the purpose of repealing, altering, and adding certain defined terms relating to
5 the registration of certain institutions of higher education that offer certain
6 online distance education programs; authorizing the Maryland Higher
7 Education Commission to charge certain institutions a certain fee under certain
8 circumstances; and generally relating to institutions of higher education and
9 fully online distance education.

10 BY repealing and reenacting, with amendments,
11 Article – Education
12 Section 11–202.2
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2013 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Education**

18 11–202.2.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) (1) In this subtitle the following words have the meanings indicated.

2 (2) ["Distance education" means course work taught by an institution
3 of higher education through electronic distribution of instruction to a site other than
4 the principal location of the institution and advertised or described as leading to the
5 formal award of a certificate or degree.

6 (3) "Fully online distance education program in the State" means a
7 program, **ORIGINATING OUTSIDE THE STATE,** [in which:

8 (i) 100% of the program is offered through electronic
9 distribution of instruction to one or more sites other than the principal location of an
10 institution; or

11 (ii) 51% or more of the program is offered through electronic
12 distribution of instruction to one or more sites other than the principal location of an
13 institution and the Commission has determined that the portion of the program
14 offered at a location in the State, if any, does not require a certificate of approval for
15 the institution to operate, do business, or function in the State] **OFFERED BY AN
16 OUT-OF-STATE INSTITUTION IN WHICH A STUDENT DOMICILED IN MARYLAND
17 ENROLLS, WHERE ~~ALL CURRICULA IN THE PROGRAM ARE WHOLLY ONLINE AND
18 ORIGINATE OUTSIDE MARYLAND~~ 51% OR MORE OF THE PROGRAM IS OFFERED
19 THROUGH ELECTRONIC DISTRIBUTION.**

20 (3) **"OUT-OF-STATE INSTITUTION" MEANS AN INSTITUTION OF
21 HIGHER EDUCATION WHOSE PRIMARY CAMPUS EXISTS OUTSIDE MARYLAND
22 AND WHOSE AUTHORITY TO GRANT DEGREES IS CONFERRED BY ANOTHER
23 STATE.**

24 (b) (1) An institution of higher education that enrolls Maryland students
25 in a fully online distance education program in the State shall file an application to
26 register with the Commission before or within 3 months of enrolling the first
27 Maryland student.

28 (2) This section does not apply to an institution of higher education
29 that enrolls Maryland students in a fully online distance education program in the
30 State that:

31 (i) Is subject to program review by the Commission under §
32 11-206 or § 11-206.1 of this subtitle; or

33 (ii) Participates in the Southern Regional Education Board's
34 Electronic Campus.

35 (3) (i) After filing an application under paragraph (1) of this
36 subsection, an institution that has enrolled a Maryland student before obtaining a

1 registration under this section may continue to operate without a registration while
2 the Commission considers the institution's application, conducts a hearing concerning
3 the institution's application, or participates in judicial review regarding an
4 institution's application.

5 (ii) An institution that continues to operate without a
6 registration under subparagraph (i) of this paragraph shall furnish a performance
7 bond or other form of financial guarantee to the State in an amount set by regulation
8 that is in addition to and separate from a performance bond or other form of financial
9 guarantee required under § 11-203 of this subtitle.

10 (c) Each institution of higher education required to register under this
11 section shall:

12 (1) Be accredited by an accrediting body recognized and approved by
13 the United States Department of Education;

14 (2) Submit to the Commission:

15 (i) Every 2 years, a financial statement reviewed by an
16 independent accountant retained by the institution;

17 (ii) An affidavit from the president or chief executive officer of
18 the institution affirming:

19 1. That the institution has not filed for bankruptcy
20 protection under Title 11 of the United States Code during its existence; and

21 2. The willingness of the president or the chief executive
22 officer to abide by the provisions of this section;

23 (iii) Proof of good business standing in the state in which the
24 central administration of the institution is incorporated; and

25 (iv) Proof of good academic standing submitted by:

26 1. The regulatory higher education entity in the state in
27 which the central administration of the institution is located; or

28 2. If the state in which the institution is located does not
29 have a regulatory higher education entity, the accrediting body that accredited the
30 institution;

31 (3) Promptly notify the Commission of a change in ownership or a
32 change in majority control;

1 (4) Comply with the Principles of Good Practice for distance education
2 established by the Commission through regulation;

3 (5) Make public and post on the institution's Web site:

4 (i) Whether the institution is registered in Maryland; and

5 (ii) The process by which to make complaints against the
6 institution;

7 (6) Comply with the refund policy and procedures established by the
8 Commission; and

9 (7) Be subject to complaint investigation by the Office of the Attorney
10 General or the Commission or both.

11 (d) The refund policy and procedures established by the Commission shall
12 allow for:

13 (1) (i) At least 2 weeks of required orientation or preenrollment
14 instruction in a fully online distance education program in the State at no charge for a
15 student who has completed less than 24 credits of college-level learning from an
16 accredited institution; and

17 (ii) A prorated refund methodology that provides a refund to
18 any student not covered by item (i) of this paragraph who has completed 60% or less of
19 a course, term, or program within the applicable billing period; or

20 (2) A prorated refund methodology that provides a refund to any
21 student who has completed 60% or less of a course, term, or program within the
22 applicable billing period.

23 (e) (1) Subject to paragraph (2) of this subsection, the Commission shall
24 require the payment of a fee set by regulation, as a condition of registration.

25 (2) **(I) ~~The~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS**
26 **PARAGRAPH, THE** fees charged shall be:

27 ~~(i)~~ **1.** A fixed amount for all institutions regardless of type,
28 location, or student enrollment; and

29 ~~(ii)~~ **2.** Set to cover the approximate cost of implementing a
30 system of registration.

31 **(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS**
32 **PARAGRAPH, THE COMMISSION MAY CHARGE AN INSTITUTION THAT ENROLLS**

1 NOT MORE THAN 20 MARYLAND STUDENTS A FEE THAT IS LESS THAN THE
2 AMOUNT OF THE FEE CHARGED TO OTHER INSTITUTIONS.

3 (f) The Commission shall make public and post on its Web site:

4 (1) A list of registered institutions of higher education that offer fully
5 online distance education programs in the State; and

6 (2) If the Commission denies or revokes the registration of an
7 institution, the name of the denied or revoked institution.

8 (g) On or before December 1 each year, the Commission shall report to the
9 Governor and, in accordance with § 2-1246 of the State Government Article, the
10 General Assembly:

11 (1) The number of institutions of higher education that apply for
12 registration under this section;

13 (2) The type and size of the institutions that apply;

14 (3) The number of institutions approved for registration;

15 (4) The number of institutions denied registration;

16 (5) The number of Maryland students enrolled in institutions required
17 to register under this section;

18 (6) The results of the requirements of § 11-202.3 of this subtitle;

19 (7) The number of institutions found to be in violation of the
20 requirement to register under this section;

21 (8) Any fines imposed, and in what amounts, on institutions that
22 violate this section; and

23 (9) Any fine revenues collected from institutions for violation of this
24 section.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2014.