

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3076/2dn  
GMM:bjk:rs

August 19, 2009

Mary:

This redraft makes the substantive changes requested in your August 15, 2009, drafting instructions, but does not break up and relocate the provisions of s. 38.50 (13) (b) and (c) for all of the following reasons:

1. Actually, s. 38.50 (13) (b) and (c) pertain directly to the EAB because an “authorized institution of higher education” includes an educational institution that is approved by the EAB [s. 38.50 (13) (a) 2. b.], an educational institution that is described in s. 38.50 (1) (e) 1. to 8. [s. 38.50 (13) (a) 2. c.], and an educational institution that has been found by the EAB to meet certain standards of academic quality [s. 38.50 (13) (a) 2. e.]. Moreover, the provisions pertain indirectly to the TCS because the EAB is attached to the TCS under s. 15.945.
2. Section 38.50 (13) (c) (intro.) does not belong in the criminal law chapters because a violation of that provision is not a crime. Rather, a violation of that provision is punishable by a forfeiture, and s. 939.12 provides that conduct that is punishable only by a forfeiture is not a crime.
3. Section 38.50 (13) (c) 1. does not belong in the DRL chapters because there are numerous occupational licenses issued by agencies other than DRL. See s. 73.0301 (1) (d) for a list of those licenses.
4. Section 38.50 (13) (c) 2. does not belong in ch. 36 because ch. 36 pertains only to the UW System. There are numerous private colleges and proprietary schools in this state other than the UW System.
5. Section 38.50 (13) (c) 3. could be detached from the rest of the provisions relating to false academic credentials and replicated in the various chapters relating to state and local employment, but that would result in unnecessary duplication and lengthening of the statutes. Plus, most users of the statutes like to find what they are looking for all in one place without having to search here and there for piecemeal provisions.

In sum, to paraphrase Winston Churchill on democracy, s. 38.50 (13) might not be the ideal place for a statute governing false academic credentials, but placing it anywhere else would be even worse.

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