A BILL FOR AN ACT

RELATING TO LICENSING OF PRIVATE TRADE, VOCATIONAL, AND TECHNICAL SCHOOL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that private trade, vocational, and technical schools provide specialized training for a number of professions in the State, including those in massage therapy, healthcare, tax preparation, and maritime activities. Section 302A-425, Hawaii Revised Statutes, prohibits such schools and other private organizations or corporations from operating prior to being licensed by the department of education. The department of education has had this responsibility since 1939, when the focus of such regulation was to ensure the quality of education and instruction at those schools providing post-secondary training below the college level.

The legislature further finds that Act 57, Session Laws of Hawaii 1998, amended section 302A-425, Hawaii Revised Statutes, to declare that the purpose of such regulation is to protect consumers from false, deceptive, misleading, and unfair practices and to ensure adequate educational quality.
Report No. 02-08, *A Study on the Licensing of Private Trade, Vocational, and Technical Schools*, acknowledged that the declaration of purpose added to section 302A-425, Hawaii Revised Statutes, by Act 57, Session Laws of Hawaii 1998, brought into question the appropriateness of the program's administrative placement within the department of education.

The legislature additionally finds that, during the regular session of 2015, the legislature passed S.C.R. No. 46, S.D. 2, requesting the department of commerce and consumer affairs and department of education to convene a working group to evaluate and review the current licensing program for private trade, vocational, and technical schools. The working group collaborated to gather information and develop findings and recommendations. The working group jointly recommended that the licensure program be narrowed in scope, but were unable to come to any other joint recommendations.

The legislature finds, however, that the department of education is no longer an appropriate location for such a licensing program. The department of education's primary mission is educating students in grades kindergarten through twelve, and lacks experience providing post-secondary education.
and regulating post-secondary institutions. The legislature
further finds that the department of education does not have the
capacity or expertise in the specialized curricula of the
various private trade, vocational, and technical schools
currently under its licensing jurisdiction to effectively
administer the requirements of section 302A-425, Hawaii Revised
Statutes.

The legislature additionally finds that the department of
commerce and consumer affairs has established licensing and
regulation processes, consistent with its mission of consumer
protection, and several trade and vocational schools now receive
state licensure for business operations through the department
of commerce and consumer affairs. Consequently, the legislature
also finds that the regulation and licensing of private trade,
vocational, and technical schools at the post-secondary level
belongs more appropriately within the department of commerce and
consumer affairs.

The purpose of this Act is to transfer the licensing and
regulation program for private trade, vocational, and technical
schools from the department of education to the department of
commerce and consumer affairs.
SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

PRIVATE TRADE, VOCATIONAL, AND TECHNICAL SCHOOLS

§ -1 Purpose. The purpose of the licensing and regulation program for private trade, vocational, and technical schools is to protect consumers against practices by such schools that are false, deceptive, misleading, or unfair, and to help ensure adequate educational quality.

§ -2 License required for private trade, vocational, or technical school. (a) No private trade, vocational, or technical school shall be operated by any person or persons, firm, or any other private organization or corporation for the purpose of teaching any trade, occupation, or vocation unless there is first secured from the department of commerce and consumer affairs a license issued in accordance with this chapter and in such form as the department of commerce and consumer affairs may direct.

(b) This chapter shall only apply to those private trade, vocational, and technical schools that require licensure for the
purpose of offering federal student aid, educational grants, or other funding sources requiring state-level licensure, or for fulfilling professional licensure requirements for students. Such determination shall be made by the department of commerce and consumer affairs.

§ -3 License; fees. (a) The department of commerce and consumer affairs shall issue a license to a private trade, vocational, or technical school subject to this chapter that pays the appropriate fees and complies with all requirements of this chapter and any rules adopted by the department of commerce and consumer affairs.

(b) The department of commerce and consumer affairs shall determine an appropriate fee structure, to include separate fees for an initial application and renewal application, for the licensing of private trade, vocational, and technical schools subject to this chapter.

§ -4 Suspension and revocation of license; procedure. (a) The department of commerce and consumer affairs, after notice and opportunity for a hearing, may suspend or revoke a license at any time when, in the judgment of the department of commerce and consumer affairs, the licensee is not complying
with this chapter or rules adopted by the department of commerce
and consumer affairs. The notice of hearing shall be served
personally or sent to the licensee by registered or certified
mail with return receipt at the licensee's last known address.

(b) Notice of suspension or revocation shall be served
personally upon the licensee or sent to the licensee by
registered or certified mail with return receipt, and the
licensee shall forward the licensee's license at once to the
department of commerce and consumer affairs and immediately
cease to operate the private trade, vocational, or technical
school.

(c) All proceedings shall be subject to chapter 91.

§ 5 Penalty. Any person, firm, or corporation that
violates the requirements of this chapter shall be fined not
more than $100, or imprisoned not more than ninety days, or
both, for each violation.

§ 6 Rules. The department of commerce and consumer
affairs shall adopt rules to carry out this chapter's purpose
and enforcement."

SECTION 3. Section 302A-424, Hawaii Revised Statutes, is
repealed.
"§302A-424—Regulation of other schools and classes.

The department, at its discretion, may regulate schools, classes, or courses excepted from the definition of "private trade, vocational, or technical school"."

SECTION 4. Section 302A-425, Hawaii Revised Statutes, is repealed.

"§302A-425—License required for private trade, vocational, or technical school. No private trade, vocational, or technical school shall be operated by any person or persons, firm, or any other private organization or corporation for the purpose of teaching any trade, occupation, or vocation unless there is first secured from the department a license issued in accordance with sections 302A-424 to 302A-428 and in such form as the department may direct. The purpose of the licensing and regulation is to protect consumers against practices by private trade, vocational, or technical schools that are false, deceptive, misleading, or unfair, and to help ensure adequate educational quality at private trade, vocational, or technical schools."

SECTION 5. Section 302A-426, Hawaii Revised Statutes, is repealed.
procedure. (a) The department, after notice and opportunity for a hearing, may suspend or revoke a license at any time when, in the judgment of the department, the licensee is not complying with sections 302A-424 to 302A-428 or the rules that may be adopted by the board. The notice of hearing shall be served personally or sent to the licensee by registered or certified mail with return receipt at the licensee's last known address.

(b) Notice of suspension or revocation shall be served personally upon the licensee or sent to the licensee by registered or certified mail with return receipt, and the licensee shall forward the licensee's license at once to the department, and cease at once to operate the private trade, vocational, or technical school.

(c) All proceedings shall be subject to chapter 91."

SECTION 6. Section 302A-427, Hawaii Revised Statutes, is repealed.

"[§302A-427]—Powers of department. No license shall be issued under sections 302A-424 to 302A-428 until the department has approved the method and content of the advertising, the standards and the methods of instruction, and the equipment
provided. The department may consult with trade or vocational
experts as to the equipment provided and the standards and
methods of instruction offered. The department may adopt
reasonable rules relating to the enforcement of sections 302A-
424 to 302A-428."

SECTION 7. Section 302A-428, Hawaii Revised Statutes, is
repealed.

["§302A-428—Penalty. Any person, firm, or corporation
that violates sections 302A-424 to 302A-428 shall be guilty of a
misdemeanor, but shall be subject to a maximum fine of not more
than $100 or imprisonment for not more than ninety days, or
both."

SECTION 8. All rights, powers, functions, and duties
previously performed by the department of education under
sections 302A-424 to 302A-428, Hawaii Revised Statutes, are
transferred to the professional vocational licensing division of
the department of commerce and consumer affairs; provided that
the department of education shall retain the department's
existing rights, powers, functions, and duties until July 1,
2018.
SECTION 9. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of education to implement the provisions of sections 302A-424 to 302A-428, Hawaii Revised Statutes, shall be repealed upon transfer to the department of commerce and consumer affairs.

SECTION 10. All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the department of education pursuant to sections 302A-424 to 302A-428, Hawaii Revised Statutes, shall remain in full force and effect. Upon the transfer on July 1, 2018, every reference to the department of education or the superintendent of education in those deeds, leases, contracts, loans, agreements, permits, or other documents shall be construed as a reference to the department of commerce and consumer affairs or the director of commerce and consumer affairs, as appropriate.

SECTION 11. The department of education and the department of commerce and consumer affairs shall collaborate to implement the transfers and transitions on July 1, 2018, required under this Act with as little disruption as possible to ongoing duties, responsibilities, and public services provided.
SECTION 12. Statutory material to be repealed is bracketed and stricken.

SECTION 13. This Act shall take effect upon its approval; provided that sections 2 to 10 shall take effect on July 1, 2018.
Report Title:
Private Trade, Vocational, and Technical Schools; Department of Education; Department of Commerce and Consumer Affairs

Description:
Transfers administration of the licensing and regulation program for private trade, vocational, and technical schools from the department of education to the department of commerce and consumer affairs. Transfer effective as of July 1, 2018. (SD1)

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