

JAN 25 2017

A BILL FOR AN ACT

RELATING TO PRIVATE TRADE, VOCATIONAL, AND TECHNICAL SCHOOLS.

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

1 SECTION 1. The legislature finds that private trade,
2 vocational, and technical schools provide specialized training
3 for a number of professions in the State, including those in
4 massage therapy, health care, tax preparation, and maritime
5 activities.

6 Currently, section 302A-425, Hawaii Revised Statutes,
7 prohibits such schools and other private organizations or
8 corporations for the purpose of teaching any trade, occupation,
9 or vocation from operating prior to being licensed by the
10 department of education. The department of education has had
11 this responsibility since 1939, when the focus of such
12 regulation was to ensure the quality of education and
13 instruction at those schools providing post-secondary training
14 below the college level.

15 The legislature finds that Act 57, Session Laws of Hawaii
16 1998, amended section 302A-425, Hawaii Revised Statutes, to
17 declare that the purpose of such regulation is to protect



1 consumers from false, deceptive, misleading, and unfair
2 practices, and to ensure adequate educational quality. The
3 legislature also finds that Auditor's Report No. 02-08, *A Study*
4 *on the Licensing of Private Trade, Vocational, and Technical*
5 *Schools*, acknowledged that the declaration of purpose added to
6 section 302A-425, Hawaii Revised Statutes, brought into question
7 the appropriateness of the program's administrative placement
8 within the department of education.

9 In 2015, the legislature passed S.C.R. No. 46, S.D. 2,
10 regular session of 2015, requesting the department of commerce
11 and consumer affairs and department of education to convene a
12 working group to evaluate and review the current licensing
13 program for private trade, vocational, and technical schools.
14 The working group jointly recommended that the licensure program
15 be narrowed in scope, but were unable to come to any other joint
16 recommendations.

17 The department of education's primary mission is
18 kindergarten to twelfth grade education, and does not include
19 the provision of post-secondary education or the regulation of
20 post-secondary institutions. The legislature finds that the
21 department of education does not have the capacity or expertise



1 in the specialized curricula of the various private trade,
2 vocational, and technical schools currently under its licensing
3 jurisdiction to effectively administer the requirements of
4 section 302A-425, Hawaii Revised Statutes.

5 Accordingly, the purpose of this Act is to narrow the scope
6 of the private trade, vocational, and technical school licensure
7 program and establish a licensing fee to ensure the program's
8 sustainability.

9 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§302A- Private trade, vocational, and technical school
13 licensure special fund. There is created in the state treasury
14 a special fund to be designated as the private trade,
15 vocational, and technical school licensure special fund into
16 which shall be deposited all revenues and fees collected by the
17 department pursuant to section 302A-425. Moneys in the private
18 trade, vocational, and technical school licensure special fund
19 shall be used to fund activities related to the licensure
20 requirements established under section 302A-425."



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1 SECTION 3. Section 302A-101, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending the definition of "license" to read:

4 ""License" means the recognition granted by the Hawaii
5 teacher standards board to an individual to practice the
6 profession of teaching. This definition shall not apply to the
7 term "license" as it is used in ~~[sections]~~ section 302A-425 ~~[to~~
8 ~~302A-427]~~."

9 2. By amending the definition of "private trade,
10 vocational, or technical school" to read:

11 ""Private trade, vocational, or technical school" means
12 ~~[any plan or method used by any person or persons, firm, or any~~
13 ~~other]~~ an organization or corporation ~~[for giving]~~ that provides
14 instruction in any form or manner in any trade, occupation, or
15 vocation for a consideration, reward, or promise of whatever
16 nature, ~~[including correspondence schools located within the~~
17 ~~State,]~~ except ~~[as follows]~~:

18 (1) Schools maintained, or classes conducted, by employers
19 for their own employees where no fee or tuition is
20 charged;



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- 1 (2) Courses of instruction given by any fraternal society,
2 benevolent order, or professional organization to its
3 members, which courses are not operated for profit;
- 4 (3) Flying schools qualified under the Federal Aviation
5 Administration;
- 6 (4) Classes conducted for less than five students at one
7 and the same time;
- 8 (5) Classes or courses of instruction that are conducted
9 for twenty or fewer class sessions during any twelve-
10 month period;
- 11 (6) Avocational, hobby, recreation, or health classes or
12 courses;
- 13 (7) Courses of instruction on religious subjects given
14 under the auspices of a religious organization; and
- 15 (8) Schools registered or authorized by the department of
16 commerce and consumer affairs or by boards and
17 commissions placed in the department of commerce and
18 consumer affairs for administrative purposes."

19 SECTION 4. Section 302A-425, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§302A-425 [~~License required for~~] Licensure of private
2 trade, vocational, or technical school. [~~No private trade,~~
3 ~~vocational, or technical school shall be operated by any person~~
4 ~~or persons, firm, or any other private organization or~~
5 ~~corporation for the purpose of teaching any trade, occupation,~~
6 ~~or vocation unless there is first secured from the department a~~
7 ~~license issued in accordance with sections 302A-424 to 302A-428~~
8 ~~and in such form as the department may direct.] (a) The
9 department shall license only those private trade, vocational,
10 and technical schools that require legal authorization by the
11 State in order to be considered an eligible institution pursuant
12 to title 34 Code of Federal Regulations part 600 for the
13 purposes of participation in student aid programs authorized
14 under title IV of the Higher Education Act of 1965, as amended.
15 The purpose of the licensing and regulation is to protect
16 consumers against practices by private trade, vocational, or
17 technical schools that are false, deceptive, misleading, or
18 unfair[, ~~and to help ensure adequate educational quality at~~
19 ~~private trade, vocational, or technical schools]. The
20 department shall not be responsible for review of curriculum or
21 assurance of program quality for those private trade,~~~~

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1 vocational, and technical schools whose curriculum or program
2 falls outside of the department's mission.

3 (b) A private trade, vocational, or technical school that
4 requires licensure under subsection (a) shall submit the
5 following to the department in such form as the department may
6 direct:

7 (1) Certification on official letterhead, signed by the
8 head of school, that the school has students currently
9 receiving, or who have applied to receive, aid under
10 title IV of the Higher Education Act of 1965, as
11 amended;

12 (2) Proof that the school is accredited by an accrediting
13 commission of career schools and colleges, accrediting
14 council for continuing education and training, or an
15 accrediting bureau of health education schools;
16 provided that in lieu of such accreditation, the
17 school may provide a letter from the relevant state
18 licensure board that graduates completing the school's
19 curriculum are eligible for state licensure;

20 (3) Proof of current business registration demonstrating
21 good standing;



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- 1 (4) A copy of the school's current general excise tax
2 license, including a current tax clearance; and
- 3 (5) Proof that the school has secured a surety bond in the
4 sum of \$50,000, payable in a form satisfactory to the
5 department, to provide indemnification to any student
6 suffering a financial loss as a result of the school
7 not fulfilling its obligations under the terms of its
8 license; provided that the bonding requirement may be
9 reduced at the discretion of the department.
- 10 (c) A private trade, vocational, or technical school
11 applying for initial licensure shall pay an initial license fee
12 of \$10,000 to the department upon application for licensure
13 under this section.
- 14 (d) Every two years following the date of initial
15 licensure, a private trade, vocational, or technical school
16 shall apply for a renewal license by:
- 17 (1) Submitting all documents required under subsection
18 (b), with updated information as appropriate;
- 19 (2) Submitting a list of complaints officially filed with
20 the department of commerce and consumer affairs
21 pursuant to subsection (e); and



1 (3) Paying a renewal licensure fee of \$10,000.

2 (e) Complaints alleging unfair or deceptive acts or
3 practices by a private trade, vocational, or technical school
4 shall be filed with the appropriate branch of the department of
5 commerce and consumer affairs for review, investigation, and
6 appropriate recommendation for action, including appeals from
7 action taken.

8 (f) Fees collected pursuant to this section shall be
9 deposited into the private trade, vocational, and technical
10 school licensure special fund.

11 (g) The department may adopt reasonable rules relating to
12 the enforcement of sections 302A-425 to 302A-426."

13 SECTION 5. Section 302A-426, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) The department, after notice and opportunity for a
16 hearing, may suspend or revoke a license at any time when, in
17 the judgment of the department, the licensee is not complying
18 with [~~sections 302A-424 to 302A-428~~] section 302A-425 or the
19 rules that may be adopted by the board. The notice of hearing
20 shall be served personally or sent to the licensee by registered

1 or certified mail with return receipt at the licensee's last
2 known address."

3 SECTION 6. Section 302A-424, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§302A-424] Regulation of other schools and classes.~~
6 ~~The department, at its discretion, may regulate schools,~~
7 ~~classes, or courses excepted from the definition of "private~~
8 ~~trade, vocational, or technical school"."]~~

9 SECTION 7. Section 302A-427, Hawaii Revised Statutes, is
10 repealed.

11 ~~["§302A-427] Powers of department. No license shall be~~
12 ~~issued under sections 302A-424 to 302A-428 until the department~~
13 ~~has approved the method and content of the advertising, the~~
14 ~~standards and the methods of instruction, and the equipment~~
15 ~~provided. The department may consult with trade or vocational~~
16 ~~experts as to the equipment provided and the standards and~~
17 ~~methods of instruction offered. The department may adopt~~
18 ~~reasonable rules relating to the enforcement of sections 302A-~~
19 ~~424 to 302A-428."]~~

20 SECTION 8. Section 302A-428, Hawaii Revised Statutes, is
21 repealed.



1 ["~~§302A-428~~ ~~Penalty.~~ Any person, firm, or corporation
2 that violates sections 302A-424 to 302A-428 shall be guilty of a
3 misdemeanor, but shall be subject to a maximum fine of not more
4 than \$100 or imprisonment for not more than ninety days, or
5 both."]

6 SECTION 9. All rules, policies, procedures, guidelines,
7 and other material adopted or developed by the department of
8 education to implement sections 302A-424 to 302A-428, Hawaii
9 Revised Statutes, shall remain in full force and effect until
10 amended or repealed pursuant to chapter 91, Hawaii Revised
11 Statutes. All licenses current as of the effective date of this
12 Act shall remain valid until the expiration of the licensure
13 term, at which point the private trade, vocational, or technical
14 school shall be required to apply for initial licensure under
15 section 302A-425, Hawaii Revised Statutes.

16 SECTION 10. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 11. This Act shall take effect on September 1,
19 2017.

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Report Title:

Private Trade, Vocational, and Technical Schools; Licensing;
Licensing Fee

Description:

Narrows the scope of the private trade, vocational, and technical school licensure program within the department of education. Establishes a licensing fee to ensure the sustainability of the licensure program. Establishes a license renewal process and fee. Creates the private trade, vocational, and technical school licensure special fund.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

