
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:

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, healthcare, tax preparation, and maritime
5 activities. Section 302A-425, Hawaii Revised Statutes,
6 prohibits such schools and other private organizations or
7 corporations from operating prior to being licensed by the
8 department of education. The department of education has had
9 this responsibility since 1939, when the focus of such
10 regulation was to ensure the quality of education and
11 instruction at those schools providing post-secondary training
12 below the college level.

13 The legislature further finds that Act 57, Session Laws of
14 Hawaii 1998, amended section 302A-425, Hawaii Revised Statutes,
15 to declare that the purpose of such regulation is to protect
16 consumers from false, deceptive, misleading, and unfair



1 practices and to ensure adequate educational quality. Auditor's
2 Report No. 02-08, *A Study on the Licensing of Private Trade,*
3 *Vocational, and Technical Schools,* acknowledged that the
4 declaration of purpose added to section 302A-425, Hawaii Revised
5 Statutes, by Act 57, Session Laws of Hawaii 1998, brought into
6 question the appropriateness of the program's administrative
7 placement within the department of education.

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

18 The legislature finds, however, that the department of
19 education is no longer an appropriate location for such a
20 licensing program. The department of education's primary
21 mission is educating students in grades kindergarten through



1 twelve, and lacks experience providing post-secondary education
2 and regulating post-secondary institutions. The legislature
3 further finds that the department of education does not have the
4 capacity or expertise in the specialized curricula of the
5 various private trade, vocational, and technical schools
6 currently under its licensing jurisdiction to effectively
7 administer the requirements of section 302A-425, Hawaii Revised
8 Statutes.

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

19 The purpose of this Act is to transfer the licensing and
20 regulation program for private trade, vocational, and technical



1 schools from the department of education to the department of
2 commerce and consumer affairs.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 PRIVATE TRADE, VOCATIONAL, AND TECHNICAL SCHOOLS

8 § -1 Purpose. The purpose of the licensing and
9 regulation program for private trade, vocational, and technical
10 schools is to protect consumers against practices by such
11 schools that are false, deceptive, misleading, or unfair, and to
12 help ensure adequate educational quality.

13 § -2 License required for private trade, vocational, or
14 technical school. (a) No private trade, vocational, or
15 technical school shall be operated by any person or persons,
16 firm, or any other private organization or corporation for the
17 purpose of teaching any trade, occupation, or vocation unless
18 there is first secured from the department of commerce and
19 consumer affairs a license issued in accordance with this
20 chapter and in such form as the department of commerce and
21 consumer affairs may direct.



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

8 § -3 License; fees. (a) The department of commerce and
9 consumer affairs shall issue a license to a private trade,
10 vocational, or technical school subject to this chapter that
11 pays the appropriate fees and complies with all requirements of
12 this chapter and any rules adopted by the department of commerce
13 and consumer affairs.

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

19 § -4 Suspension and revocation of license; procedure.

20 (a) The department of commerce and consumer affairs, after
21 notice and opportunity for a hearing, may suspend or revoke a



1 license at any time when, in the judgment of the department of
2 commerce and consumer affairs, the licensee is not complying
3 with this chapter or rules adopted by the department of commerce
4 and consumer affairs. The notice of hearing shall be served
5 personally or sent to the licensee by registered or certified
6 mail with return receipt at the licensee's last known address.

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

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

15 § -5 Penalty. Any person, firm, or corporation that
16 violates the requirements of this chapter shall be fined not
17 more than \$100, or imprisoned not more than ninety days, or
18 both, for each violation.

19 § -6 Rules. The department of commerce and consumer
20 affairs shall adopt rules to carry out this chapter's purpose
21 and enforcement."



1 SECTION 3. Section 302A-424, Hawaii Revised Statutes, is
2 repealed.

3 [~~§302A-424 Regulation of other schools and classes.~~
4 ~~The department, at its discretion, may regulate schools,~~
5 ~~classes, or courses excepted from the definition of "private~~
6 ~~trade, vocational, or technical school".~~"]

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

9 [~~§302A-425 License required for private trade,~~
10 ~~vocational, or technical school. No private trade, vocational,~~
11 ~~or technical school shall be operated by any person or persons,~~
12 ~~firm, or any other private organization or corporation for the~~
13 ~~purpose of teaching any trade, occupation, or vocation unless~~
14 ~~there is first secured from the department a license issued in~~
15 ~~accordance with sections 302A-424 to 302A-428 and in such form~~
16 ~~as the department may direct. The purpose of the licensing and~~
17 ~~regulation is to protect consumers against practices by private~~
18 ~~trade, vocational, or technical schools that are false,~~
19 ~~deceptive, misleading, or unfair, and to help ensure adequate~~
20 ~~educational quality at private trade, vocational, or technical~~
21 ~~schools.~~"]



1 SECTION 5. Section 302A-426, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§302A-426] Suspension and revocation of license,~~
4 ~~procedure. (a) The department, after notice and opportunity~~
5 ~~for a hearing, may suspend or revoke a license at any time when,~~
6 ~~in the judgment of the department, the licensee is not complying~~
7 ~~with sections 302A-424 to 302A-428 or the rules that may be~~
8 ~~adopted by the board. The notice of hearing shall be served~~
9 ~~personally or sent to the licensee by registered or certified~~
10 ~~mail with return receipt at the licensee's last known address.~~

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

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

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

20 ~~["§302A-427] Powers of department. No license shall be~~
21 ~~issued under sections 302A-424 to 302A-428 until the department~~



1 ~~has approved the method and content of the advertising, the~~
2 ~~standards and the methods of instruction, and the equipment~~
3 ~~provided. The department may consult with trade or vocational~~
4 ~~experts as to the equipment provided and the standards and~~
5 ~~methods of instruction offered. The department may adopt~~
6 ~~reasonable rules relating to the enforcement of sections 302A-~~
7 ~~424 to 302A-428."~~

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

10 ~~["~~§302A-428~~ Penalty. Any person, firm, or corporation~~
11 ~~that violates sections 302A-424 to 302A-428 shall be guilty of a~~
12 ~~misdemeanor, but shall be subject to a maximum fine of not more~~
13 ~~than \$100 or imprisonment for not more than ninety days, or~~
14 ~~both."~~

15 SECTION 8. All rights, powers, functions, and duties
16 previously performed by the department of education under
17 sections 302A-424 to 302A-428, Hawaii Revised Statutes, are
18 transferred to the professional vocational licensing division of
19 the department of commerce and consumer affairs.

20 SECTION 9. All rules, policies, procedures, guidelines,
21 and other material adopted or developed by the department of



1 education to implement the provisions of sections 302A-424 to
2 302A-428, Hawaii Revised Statutes, shall remain in full force
3 and effect until amended or repealed by the director of commerce
4 and consumer affairs pursuant to chapter 91, Hawaii Revised
5 Statutes. In the interim, every reference to the department of
6 education or the superintendent of education in those rules,
7 policies, procedures, guidelines, and other material is amended
8 to refer to the department of commerce and consumer affairs or
9 the director of commerce and consumer affairs, as appropriate

10 SECTION 10. All deeds, leases, contracts, loans,
11 agreements, permits, or other documents executed or entered into
12 by or on behalf of the department of education pursuant to
13 sections 302A-424 to 302A-428, Hawaii Revised Statutes, shall
14 remain in full force and effect. Effective July 1, 2016, every
15 reference to the department of education or the superintendent
16 of education in those deeds, leases, contracts, loans,
17 agreements, permits, or other documents shall be construed as a
18 reference to the department of commerce and consumer affairs or
19 the director of commerce and consumer affairs, as appropriate.

20 SECTION 11. The department of education and the department
21 of commerce and consumer affairs shall collaborate to implement




1 the transfers and transitions required under this Act with as
2 little disruption as possible to ongoing duties,
3 responsibilities, and public services provided.

4 SECTION 12. Statutory material to be repealed is bracketed
5 and stricken.

6 SECTION 13. This Act shall take effect upon its approval.

7

INTRODUCED BY: 
JAN 26 2016



H.B. NO. 2454

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.

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

