
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. Private trade, vocational, and technical
2 schools provide specialized training for a number of professions
3 in the State, including those in massage therapy, healthcare,
4 tax preparation, and maritime activities. Section 302A-425,
5 Hawaii Revised Statutes, prohibits these schools and other
6 private organizations or corporations from operating prior to
7 being licensed by the department of education. The department
8 of education has had this responsibility since 1939, when the
9 focus of the regulation was to ensure the quality of education
10 and instruction at those schools providing post-secondary
11 training below the college level.

12 Act 57, Session Laws of Hawaii 1998, amended section 302A-
13 425, Hawaii Revised Statutes, to declare that the purpose of the
14 regulation is to protect consumers from false, deceptive,
15 misleading, and unfair practices and to ensure adequate
16 educational quality. Auditor's Report No. 02-08, *A Study on the*



1 *Licensing of Private Trade, Vocational, and Technical Schools,*
2 acknowledged that the declaration of purpose added to section
3 302A-425, Hawaii Revised Statutes, by Act 57, Session Laws of
4 Hawaii 1998, brought into question the appropriateness of the
5 program's administrative placement within the department of
6 education.

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

16 However, the department of education is no longer an
17 appropriate location for such a licensing program. The
18 department of education's primary mission is educating students
19 in grades kindergarten through twelve, and it lacks experience
20 providing post-secondary education and regulating post-secondary
21 institutions. The department of education does not have the



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

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

15 The purpose of this Act is to transfer the licensing and
16 regulation program for private trade, vocational, and technical
17 schools from the department of education to the department of
18 commerce and consumer affairs.

19 SECTION 2. The Hawaii Revised Statutes is amended by
20 adding a new chapter to be appropriately designated and to read
21 as follows:



1 "CHAPTER

2 PRIVATE TRADE, VOCATIONAL, AND TECHNICAL SCHOOLS

3 § -1 Purpose. The purpose of the licensing and
4 regulation program for private trade, vocational, and technical
5 schools is to protect consumers against practices by such
6 schools that are false, deceptive, misleading, or unfair, and to
7 help ensure adequate educational quality.

8 § -2 License required for private trade, vocational, or
9 technical school. (a) No private trade, vocational, or
10 technical school shall be operated by any person or persons,
11 firm, or any other private organization or corporation for the
12 purpose of teaching any trade, occupation, or vocation unless
13 there is first secured from the department of commerce and
14 consumer affairs a license issued in accordance with this
15 chapter and in a form as the department of commerce and consumer
16 affairs may direct.

17 (b) This chapter shall only apply to those private trade,
18 vocational, and technical schools that require licensure for the
19 purpose of offering federal student aid, educational grants, or
20 other funding sources requiring state-level licensure, or for
21 fulfilling professional licensure requirements for students.



1 The determination shall be made by the department of commerce
2 and consumer affairs.

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

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

14 § -4 Suspension and revocation of license; procedure.

15 (a) The department of commerce and consumer affairs, after
16 notice and opportunity for a hearing, may suspend or revoke a
17 license at any time when, in the judgment of the department of
18 commerce and consumer affairs, the licensee is not complying
19 with this chapter or the rules adopted thereunder by the
20 department of commerce and consumer affairs. The notice of
21 hearing shall be served personally or sent to the licensee by



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

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

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

11 § -5 Penalty. Any person, firm, or corporation that
12 violates the requirements of this chapter shall be fined not
13 more than \$100, or imprisoned not more than ninety days, or
14 both, for each violation.

15 § -6 Rules. The department of commerce and consumer
16 affairs shall adopt rules, pursuant to chapter 91, to carry out
17 this chapter's purpose and enforcement."

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

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



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

5 2. By deleting the definition of "private trade,
6 vocational, or technical school".

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

14 ~~(1) Schools maintained, or classes conducted, by employers~~
15 ~~for their own employees where no fee or tuition is~~
16 ~~charged;~~

17 ~~(2) Courses of instruction given by any fraternal society,~~
18 ~~benevolent order, or professional organization to its~~
19 ~~members, which courses are not operated for profit;~~

20 ~~(3) Flying schools qualified under the Federal Aviation~~
21 ~~Administration;~~



- 1 ~~(4) Classes conducted for less than five students at one~~
- 2 ~~and the same time;~~
- 3 ~~(5) Classes or courses of instruction that are conducted~~
- 4 ~~for twenty or fewer class sessions during any twelve-~~
- 5 ~~month period;~~
- 6 ~~(6) Avocational, hobby, recreation, or health classes or~~
- 7 ~~courses;~~
- 8 ~~(7) Courses of instruction on religious subjects given~~
- 9 ~~under the auspices of a religious organization; and~~
- 10 ~~(8) Schools registered by the department of commerce and~~
- 11 ~~consumer affairs or by boards and commissions placed~~
- 12 ~~in the department of commerce and consumer affairs for~~
- 13 ~~administrative purposes."~~

14 SECTION 4. Section 302A-424, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§302A-424 Regulation of other schools and classes.~~

17 ~~The department, at its discretion, may regulate schools,~~

18 ~~classes, or courses excepted from the definition of "private~~

19 ~~trade, vocational, or technical school".~~"]

20 SECTION 5. Section 302A-425, Hawaii Revised Statutes, is
21 repealed.

1 ~~["§302A-425 License required for private trade,~~
2 ~~vocational, or technical school. No private trade, vocational,~~
3 ~~or technical school shall be operated by any person or persons,~~
4 ~~firm, or any other private organization or corporation for the~~
5 ~~purpose of teaching any trade, occupation, or vocation unless~~
6 ~~there is first secured from the department a license issued in~~
7 ~~accordance with sections 302A-424 to 302A-428 and in such form~~
8 ~~as the department may direct. The purpose of the licensing and~~
9 ~~regulation is to protect consumers against practices by private~~
10 ~~trade, vocational, or technical schools that are false,~~
11 ~~deceptive, misleading, or unfair, and to help ensure adequate~~
12 ~~educational quality at private trade, vocational, or technical~~
13 ~~schools."]~~

14 SECTION 6. Section 302A-426, Hawaii Revised Statutes, is
15 repealed.

16 ~~["[§302A-426] Suspension and revocation of license,~~
17 ~~procedure. (a) The department, after notice and opportunity~~
18 ~~for a hearing, may suspend or revoke a license at any time when,~~
19 ~~in the judgment of the department, the licensee is not complying~~
20 ~~with sections 302A-424 to 302A-428 or the rules that may be~~
21 ~~adopted by the board. The notice of hearing shall be served~~



1 ~~personally or sent to the licensee by registered or certified~~
2 ~~mail with return receipt at the licensee's last known address.~~

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

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

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

12 ~~["§302A-427] Powers of department. No license shall be~~
13 ~~issued under sections 302A-424 to 302A-428 until the department~~
14 ~~has approved the method and content of the advertising, the~~
15 ~~standards and the methods of instruction, and the equipment~~
16 ~~provided. The department may consult with trade or vocational~~
17 ~~experts as to the equipment provided and the standards and~~
18 ~~methods of instruction offered. The department may adopt~~
19 ~~reasonable rules relating to the enforcement of sections 302A-~~
20 ~~424 to 302A-428."]~~



1 SECTION 8. Section 302A-428, Hawaii Revised Statutes, is
2 repealed.

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

8 SECTION 9. All rights, powers, functions, and duties
9 previously performed by the department of education under
10 sections 302A-424 to 302A-428, Hawaii Revised Statutes, are
11 transferred to the professional vocational licensing division of
12 the department of commerce and consumer affairs; provided that
13 the department of education shall retain the department's
14 existing rights, powers, functions, and duties until July 1,
15 2018.

16 SECTION 10. All rules, policies, procedures, guidelines,
17 and other material adopted or developed by the department of
18 education to implement the provisions of sections 302A-424 to
19 302A-428, Hawaii Revised Statutes, shall be repealed upon
20 transfer to the department of commerce and consumer affairs.



1 SECTION 11. All deeds, leases, contracts, loans,
2 agreements, permits, or other documents executed or entered into
3 by or on behalf of the department of education pursuant to
4 sections 302A-424 to 302A-428, Hawaii Revised Statutes, shall
5 remain in full force and effect. Upon the transfer on July 1,
6 2018, every reference to the department of education or the
7 superintendent of education in those deeds, leases, contracts,
8 loans, agreements, permits, or other documents shall be
9 construed as a reference to the department of commerce and
10 consumer affairs or the director of commerce and consumer
11 affairs, as appropriate.

12 SECTION 12. The department of education and the department
13 of commerce and consumer affairs shall collaborate to implement
14 the transfers and transitions on July 1, 2018, required under
15 this Act with as little disruption as possible to ongoing
16 duties, responsibilities, and public services provided.

17 SECTION 13. Statutory material to be repealed is bracketed
18 and stricken.

19 SECTION 14. This Act shall take effect on July 1, 2050;
20 provided that sections 2 to 11 shall take effect on July 1,
21 2050.



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. (SB2976 HD1)

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

