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# A BILL FOR AN ACT

RELATING TO INDEPENDENT EDUCATIONAL INSTITUTIONS.

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

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4   **"CHAPTER**

5   **PRIVATE TRADE, VOCATIONAL, OR TECHNICAL SCHOOLS**

6   **AND DEGREE GRANTING INSTITUTIONS**

7           § -1 **Definitions.** As used in this chapter, the  
8 following terms have the following meanings unless the context  
9 indicates otherwise:

10           "Degree" means "degree" as defined in section 446E-1.

11           "Degree granting institution" means "degree granting  
12 institution" as defined in section 446E-1, provided that the  
13 term shall not include any institution established under the  
14 University of Hawaii system.

15           "Department" means the department of commerce and consumer  
16 affairs.

17           "Director" means the director of commerce and consumer  
18 affairs.



1 "Private trade, vocational, or technical school" means any  
2 plan or method used by any person or persons, firm, or any other  
3 organization or corporation for giving instruction in any form  
4 or manner in any trade, occupation, or vocation for a  
5 consideration, reward, or promise of whatever nature, including  
6 correspondence schools located within the State. The term does  
7 not include "public schools" defined in section 302A-101.

8 § -2 **Regulation of private trade, vocational, or**  
9 **technical schools and degree granting institutions.** The  
10 department shall regulate private trade, vocational, or  
11 technical schools and degree granting institutions.

12 § -3 **License required for private trade, vocational, or**  
13 **technical school and degree granting institution.** (a) No  
14 private trade, vocational, or technical school shall be operated  
15 by any person or persons, firm, or any other private  
16 organization or corporation for the purpose of teaching any  
17 trade, occupation, or vocation or any program or course leading  
18 to a degree unless there is first secured from the department a  
19 license issued in accordance with this chapter and in such form  
20 as the department may direct. The purpose of the licensing and  
21 regulation is to protect consumers against practices by private



1 trade, vocational, or technical schools and degree granting  
2 institutions that are false, deceptive, misleading, or unfair.

3 (b) The department shall charge fees for each initial  
4 license and every renewal of that license. The department shall  
5 determine all fees and renewal periods.

6 § -4 Suspension and revocation of license; procedure.

7 (a) The department, after notice and opportunity for a hearing,  
8 may suspend or revoke a license at any time when, in the  
9 judgment of the department, the licensee is not complying with  
10 this chapter or the rules that may be adopted by the director.  
11 The notice of hearing shall be served personally or sent to the  
12 licensee by registered or certified mail with return receipt at  
13 the licensee's last known address.

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

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

1           §   -5   **Powers of department.** No license shall be issued  
2 under this chapter until the department has approved the method  
3 and content of the advertising, the standards and the methods of  
4 instruction, and the equipment provided. The department may  
5 consult with experts or specialists as to the equipment provided  
6 and the standards and methods of instruction offered. The  
7 department may adopt reasonable rules under chapter 91 relating  
8 to the implementation and enforcement of this chapter.

9           §   -6   **Penalty.** Any person, firm, or corporation that  
10 violates any provision of this chapter shall be guilty of a  
11 misdemeanor, but shall be subject to a maximum fine of not more  
12 than \$100 or imprisonment for not more than ninety days, or  
13 both."

14           SECTION 2. Section 302A-101, Hawaii Revised Statutes, is  
15 amended by deleting the definition of "private trade,  
16 vocational, or technical school".

17           ~~["Private trade, vocational, or technical school" means~~  
18 ~~any plan or method used by any person or persons, firm, or any~~  
19 ~~other organization or corporation for giving instruction in any~~  
20 ~~form or manner in any trade, occupation, or vocation for a~~  
21 ~~consideration, reward, or promise of whatever nature, including~~



1 ~~correspondence schools located within the State, except as~~  
2 ~~follows:~~

3 ~~(1) Schools maintained, or classes conducted, by employers~~  
4 ~~for their own employees where no fee or tuition is~~  
5 ~~charged;~~

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

9 ~~(3) Flying schools qualified under the Federal Aviation~~  
10 ~~Administration;~~

11 ~~(4) Classes conducted for less than five students at one~~  
12 ~~and the same time;~~

13 ~~(5) Classes or courses of instruction that are conducted~~  
14 ~~for twenty or fewer class sessions during any twelve-~~  
15 ~~month period;~~

16 ~~(6) Avocational, hobby, recreation, or health classes or~~  
17 ~~courses;~~

18 ~~(7) Courses of instruction on religious subjects given~~  
19 ~~under the auspices of a religious organization; and~~

20 ~~(8) Schools registered by the department of commerce and~~  
21 ~~consumer affairs or by boards and commissions placed~~



1 ~~in the department of commerce and consumer affairs for~~  
2 ~~administrative purposes."~~]

3 SECTION 3. 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 4. Section 302A-425, Hawaii Revised Statutes, is  
10 repealed.

11 [~~"§302A-425 License required for private trade,~~

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



1 ~~educational quality at private trade, vocational, or technical~~  
2 ~~schools." ]~~

3 SECTION 5. Section 302A-426, Hawaii Revised Statutes, is  
4 repealed.

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

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

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

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



1           ~~["**§302A-427** Powers of department. No license shall be~~  
2 ~~issued under sections 302A-424 to 302A-428 until the department~~  
3 ~~has approved the method and content of the advertising, the~~  
4 ~~standards and the methods of instruction, and the equipment~~  
5 ~~provided. The department may consult with trade or vocational~~  
6 ~~experts as to the equipment provided and the standards and~~  
7 ~~methods of instruction offered. The department may adopt~~  
8 ~~reasonable rules relating to the enforcement of sections 302A-~~  
9 ~~424 to 302A-428."]~~

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

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

17           SECTION 8. All rights, powers, functions, and duties of  
18 the department of education relating to the licensing of private  
19 trade, vocational, or technical schools are transferred to the  
20 department of commerce and consumer affairs. All officers and  
21 employees whose functions are transferred by this Act shall be  
22 transferred with their functions and shall continue to perform



1 their regular duties upon their transfer, subject to the state  
2 personnel laws and this Act.

3 No officer or employee of the State having tenure shall  
4 suffer any loss of salary, seniority, prior service credit,  
5 vacation, sick leave, or other employee benefit or privilege as  
6 a consequence of this Act, and such officer or employee may be  
7 transferred or appointed to a civil service position without the  
8 necessity of examination; provided that the officer or employee  
9 possesses the minimum qualifications for the position to which  
10 transferred or appointed; and provided that subsequent changes  
11 in status may be made pursuant to applicable civil service and  
12 compensation laws.

13 An officer or employee of the State who does not have  
14 tenure and who may be transferred or appointed to a civil  
15 service position as a consequence of this Act shall become a  
16 civil service employee without the loss of salary, seniority,  
17 prior service credit, vacation, sick leave, or other employee  
18 benefits or privileges and without the necessity of examination;  
19 provided that such officer or employee possesses the minimum  
20 qualifications for the position to which transferred or  
21 appointed.



1           If an office or position held by an officer or employee  
2 having tenure is abolished, the officer or employee shall not  
3 thereby be separated from public employment, but shall remain in  
4 the employment of the State with the same pay and classification  
5 and shall be transferred to some other office or position for  
6 which the officer or employee is eligible under the personnel  
7 laws of the State as determined by the head of the department or  
8 the governor.

9           SECTION 9. All appropriations, records, equipment,  
10 machines, files, supplies, contracts, books, papers, documents,  
11 maps, and other personal property heretofore made, used,  
12 acquired, or held by the department of education relating to the  
13 functions transferred to the department of commerce and consumer  
14 affairs shall be transferred with the functions to which they  
15 relate.

16           SECTION 10. All rules, policies, procedures, guidelines,  
17 and other material adopted or developed by the department of  
18 education to implement provisions of the Hawaii Revised Statutes  
19 which are reenacted or made applicable to the department of  
20 commerce and consumer affairs by this Act, shall remain in full  
21 force and effect until amended or repealed by the department of  
22 commerce and consumer affairs pursuant to chapter 91, Hawaii

1 Revised Statutes. In the interim, every reference to the  
 2 department of education or superintendent of education in those  
 3 rules, policies, procedures, guidelines, and other material is  
 4 amended to refer to the department of commerce and consumer  
 5 affairs or the director of commerce and consumer affairs as  
 6 appropriate.

7 SECTION 11. Statutory material to be repealed is bracketed  
 8 and stricken.

9 SECTION 12. This Act shall take effect on July 1, 2006.

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INTRODUCED BY:

*[Handwritten signatures]*  
 \_\_\_\_\_  
*Ronald H Baker*  
*Carol Fukushima*  
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SB2062

**Report Title:**

Trade Schools

**Description:**

Transfers from the department of education to the department of commerce and consumer affairs licensing powers over trade schools. Requires the department of commerce and consumer affairs to license degree granting institutions.

