



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 11, 2017

GOV. MSG. NO. 1278

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 11, 2017, the following bill was signed into law:

SB1286 SD2 HD2 CD1

RELATING TO PRIVATE TRADE, VOCATIONAL,
AND TECHNICAL SCHOOLS
ACT 164 (17)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

on JUL 11 2017

THE SENATE
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

ACT 164
S.B. NO.

1286
S.D. 2
H.D. 2
C.D. 1

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 massage
4 therapy, health care, tax preparation, and maritime activities.

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

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



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

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

14 The department of education's primary mission is
15 kindergarten to twelfth grade education, and does not include
16 the provision of post-secondary education or the regulation of
17 post-secondary institutions. The legislature finds that the
18 department of education does not currently have the capacity or
19 expertise in the specialized curricula of the various private
20 trade, vocational, and technical schools currently under its



1 licensing jurisdiction to effectively administer the
2 requirements of section 302A-425, Hawaii Revised Statutes.

3 Accordingly, the purpose of this Act is to clarify the
4 scope of the private trade, vocational, and technical school
5 licensure program; clarify the types of schools the department
6 of education is required to license; and establish a licensing
7 fee to ensure the program's sustainability.

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

11 "§302A- Private trade, vocational, and technical school
12 licensure special fund. There is created in the state treasury
13 a special fund to be designated as the private trade,
14 vocational, and technical school licensure special fund into
15 which shall be deposited:

16 (1) All revenues and fees collected by the department
17 pursuant to section 302A-425; and

18 (2) Appropriations from the general fund of the State.

19 Moneys in the private trade, vocational, and technical school
20 licensure special fund shall be used to fund activities related
21 to the licensure requirements established under section



1 302A-425, including funding for permanent staff positions and
2 administrative and operational costs."

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

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

6 "License" means the recognition granted by the Hawaii
7 teacher standards board to an individual to practice the
8 profession of teaching. This definition shall not apply to the
9 term "license" as it is used in sections 302A-425 [~~to 302A-427.~~]
10 and 302A-426."

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

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



- 1 (1) Schools maintained, or classes conducted, by employers
2 for their own employees where no fee or tuition is
3 charged;
- 4 (2) Courses of instruction given by any fraternal society,
5 benevolent order, or professional organization to its
6 members, which courses are not operated for profit;
- 7 ~~[(3) Flying schools qualified under the Federal Aviation
8 Administration;~~
- 9 ~~+(4)]~~ (3) Classes conducted for less than five students at
10 one and the same time;
- 11 ~~+(5)]~~ (4) Classes or courses of instruction that are
12 conducted for twenty or fewer class sessions during
13 any twelve-month period;
- 14 ~~+(6)]~~ (5) Avocational, hobby, recreation, or health classes
15 or courses;
- 16 ~~+(7)]~~ (6) Courses of instruction on religious subjects
17 given under the auspices of a religious organization;
18 and
- 19 ~~+(8)]~~ (7) Schools registered or authorized by the
20 department of commerce and consumer affairs or by
21 boards and commissions placed in the department of



1 commerce and consumer affairs for administrative
2 purposes."

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

5 "§302A-425 [~~License required for~~] Licensure of private
6 trade, vocational, or technical school. [~~No private trade,~~
7 ~~vocational, or technical school shall be operated by any person~~
8 ~~or persons, firm, or any other private organization or~~
9 ~~corporation for the purpose of teaching any trade, occupation,~~
10 ~~or vocation unless there is first secured from the department a~~
11 ~~license issued in accordance with sections 302A 424 to 302A 428~~
12 ~~and in such form as the department may direct.] (a) The~~
13 department shall license private trade, vocational, and
14 technical schools as necessary for:

- 15 (1) Compliance with federal regulations or accreditation
16 requirements;
- 17 (2) Qualifying the private trade, vocational, or technical
18 school for federal, state, or private funding; or
- 19 (3) Qualifying graduates of the private trade, vocational,
20 or technical school for professional licensure.



1 The purpose of the licensing and regulation is to protect
2 consumers against practices by private trade, vocational, or
3 technical schools that are false, deceptive, misleading, or
4 unfair[, and to help ensure adequate educational quality at
5 ~~private trade, vocational, or technical schools~~]. The
6 department shall not be responsible for review of curriculum or
7 assurance of program quality for those private trade,
8 vocational, and technical schools whose curriculum or program
9 falls outside of the department's mission.

10 (b) A private trade, vocational, or technical school that
11 requires licensure under subsection (a) shall submit the
12 following to the department in such form as the department may
13 direct:

14 (1) Proof that the school is accredited by an accrediting
15 commission of career schools and colleges, accrediting
16 council for continuing education and training, or an
17 accrediting bureau of health education schools;
18 provided that in lieu of such accreditation, the
19 school may provide a letter from the relevant state,
20 federal, or other licensing authority demonstrating
21 that the private trade, vocational, or technical



- 1 school's curriculum is sufficient to prepare a
2 graduate to qualify for professional licensure;
- 3 (2) Proof of current business registration demonstrating
4 good standing;
- 5 (3) A copy of the school's current general excise tax
6 license, including a current tax clearance; and
- 7 (4) Proof that the school has secured a surety bond in the
8 sum of \$50,000, payable in a form satisfactory to the
9 department, to provide indemnification to any student
10 suffering a financial loss as a result of the school
11 not fulfilling its obligations under the terms of its
12 license; provided that the bonding requirement may be
13 reduced at the discretion of the department.
- 14 (c) A private trade, vocational, or technical school
15 applying for initial licensure after December 31, 2017, shall
16 pay an initial license fee of \$2,000 to the department upon
17 application for licensure under this section.
- 18 (d) Every two years following the date of initial
19 licensure, a private trade, vocational, or technical school
20 shall apply for a renewal license by:



- 1 (1) Submitting all documents required under subsection
2 (b), with updated information as appropriate;
- 3 (2) Submitting a list of complaints officially filed
4 within the past two years with any state or federal
5 government agency or directly with the school; and
- 6 (3) For any application for license renewal submitted
7 after December 31, 2017, paying a renewal licensure
8 fee of \$2,000.
- 9 (e) Complaints alleging unfair or deceptive acts or
10 practices by a private trade, vocational, or technical school
11 shall be filed with the appropriate branch of the department of
12 commerce and consumer affairs for review, investigation, and
13 appropriate recommendation for action, including appeals from
14 action taken.
- 15 (f) Fees collected pursuant to this section shall be
16 deposited into the private trade, vocational, and technical
17 school licensure special fund.
- 18 (g) The department may adopt reasonable rules relating to
19 the implementation of this section and section 302A-426."

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



1 "(a) The department, after notice and opportunity for a
2 hearing, may suspend or revoke a license at any time when, in
3 the judgment of the department, the licensee is not complying
4 with [~~sections 302A-424 to 302A-428~~] section 302A-425 or the
5 rules that may be adopted by the board. The notice of hearing
6 shall be served personally or sent to the licensee by registered
7 or certified mail with return receipt at the licensee's last
8 known address."

9 SECTION 6. Section 302A-424, Hawaii Revised Statutes, is
10 repealed.

11 ["~~§302A-424 Regulation of other schools and classes.~~
12 ~~The department, at its discretion, may regulate schools,~~
13 ~~classes, or courses excepted from the definition of "private~~
14 ~~trade, vocational, or technical school".~~"]

15 SECTION 7. Section 302A-427, Hawaii Revised Statutes, is
16 repealed.

17 ["~~§302A-427 Powers of department. No license shall be~~
18 ~~issued under sections 302A-424 to 302A-428 until the department~~
19 ~~has approved the method and content of the advertising, the~~
20 ~~standards and the methods of instruction, and the equipment~~
21 ~~provided. The department may consult with trade or vocational~~



1 ~~experts as to the equipment provided and the standards and~~
2 ~~methods of instruction offered. The department may adopt~~
3 ~~reasonable rules relating to the enforcement of sections 302A-~~
4 ~~424 to 302A 428."]~~

5 SECTION 8. Section 302A-428, Hawaii Revised Statutes, is
6 repealed.

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

12 SECTION 9. All rules, policies, procedures, guidelines,
13 and other material adopted or developed by the department of
14 education to implement sections 302A-424 to 302A-428, Hawaii
15 Revised Statutes, except those rules, policies, procedures,
16 guidelines, and other material adopted or developed that affect
17 the initial licensure fee and renewal licensure fee, shall
18 remain in full force and effect until amended or repealed
19 pursuant to chapter 91, Hawaii Revised Statutes. All licenses
20 current as of the effective date of this Act shall remain valid
21 until the expiration of the licensure term, at which point the



1 private trade, vocational, or technical school shall be required
2 to apply for initial licensure under section 302A-425, Hawaii
3 Revised Statutes.

4 SECTION 10. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$60,000 or so much
6 thereof as may be necessary for fiscal year 2017-2018 and the
7 same sum or so much thereof as may be necessary for fiscal year
8 2018-2019 to be deposited into the private trade, vocational,
9 and technical school licensure special fund.

10 SECTION 11. There is appropriated out of the private
11 trade, vocational, and technical school licensure special fund
12 the sum of \$100,000 or so much thereof as may be necessary for
13 fiscal year 2017-2018 and the same sum or so much thereof as may
14 be necessary for fiscal year 2018-2019 for administrative costs
15 associated with licensure of private trade, vocational, or
16 technical schools, including establishing one permanent full-
17 time equivalent (1.0 FTE) position within the department of
18 education.

19 The sums appropriated shall be expended by the department
20 of education for the purposes of this Act.



1 SECTION 12. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect on July 1, 2017.

APPROVED this 11 day of JUL , 2017





GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.


President of the Senate


Clerk of the Senate

SB No. 1286, SD 2, HD 2, CD 1

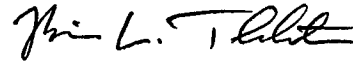
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives