
A BILL FOR AN ACT

RELATING TO EDUCATION.

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.

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

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



1 misleading, and unfair practices and to ensure adequate
2 educational quality.

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

9 In 2015, the legislature passed Senate Concurrent
10 Resolution No. 46, Senate Draft 2, requesting the department of
11 education and department of commerce and consumer affairs to
12 convene a working group to evaluate and review the current
13 licensing program for private trade, vocational, and technical
14 schools. The working group collaborated to gather information
15 and develop findings and recommendations. The working group
16 jointly recommended that the licensure program be narrowed in
17 scope, but was unable to come to any other joint
18 recommendations.

19 The department of education's primary mission is
20 kindergarten to twelfth grade education, and does not include
21 the provision of post-secondary education or the regulation of



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

7 The purpose of this Act, therefore, is to narrow the scope
8 of the licensure program and establish a licensing fee to ensure
9 its sustainability.

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

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



1 SECTION 3. Section 302A-101, Hawaii Revised Statutes, is
2 amended by amending the definition of "private trade,
3 vocational, or technical school" to read:

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

- 11 (1) Schools maintained, or classes conducted, by employers
12 for their own employees where no fee or tuition is
13 charged;
- 14 (2) Courses of instruction given by any fraternal society,
15 benevolent order, or professional organization to its
16 members, which courses are not operated for profit;
- 17 (3) Flying schools qualified under the Federal Aviation
18 Administration;
- 19 (4) Classes conducted for less than five students at one
20 and the same time;



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- 1 (5) Classes or courses of instruction that are conducted
- 2 for twenty or fewer class sessions during any twelve-
- 3 month period;
- 4 (6) Avocational, hobby, recreation, or health classes or
- 5 courses;
- 6 (7) Courses of instruction on religious subjects given
- 7 under the auspices of a religious organization; [and]
- 8 (8) Schools registered by the department of commerce and
- 9 consumer affairs or by boards and commissions placed
- 10 in the department of commerce and consumer affairs for
- 11 administrative purposes[-]; and
- 12 (9) Schools required to be authorized by the department of
- 13 commerce and consumer affairs pursuant to chapter
- 14 305J."

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

17 "~~§302A-425 [License required for]~~ Licensure of private
18 trade, vocational, or technical school. [~~No private trade,~~
19 ~~vocational, or technical school shall be operated by any person~~
20 ~~or persons, firm, or any other private organization or~~
21 ~~corporation for the purpose of teaching any trade, occupation,~~



1 ~~or vocation unless there is first secured from the department a~~
2 ~~license issued in accordance with section 302A 424 to 302A 428~~
3 ~~and in such form as the department may direct.]~~ (a) The
4 department shall license only those private trade, vocational,
5 or technical schools that require legal authorization by the
6 State to be considered an eligible institution pursuant to 34
7 Code of Federal Regulations section 600 for the purposes of
8 participating in student aid programs authorized under title IV
9 of the federal Higher Education Act of 1965, as amended. The
10 purpose of the licensing and regulation is to protect consumers
11 against practices by private trade, vocational, or technical
12 schools that are false, deceptive, misleading, or unfair[, and
13 ~~to help ensure adequate educational quality at private trade,~~
14 ~~vocational, or technical schools].~~ The department shall not be
15 responsible for review of curriculum or assurance of program
16 quality for those private trade, vocational, or technical
17 schools whose curriculum or program falls outside of the
18 department's mission, which is kindergarten to twelfth grade
19 education.

20 (b) A private trade, vocational, or technical school that
21 requires licensure under subsection (a) shall submit the



1 following to the department in such form as the department may
2 direct:

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

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

16 (3) Proof of current business registration demonstrating
17 good standing;

18 (4) A copy of the school's current general excise tax
19 license, including a current tax clearance; and

20 (5) Proof that the school has secured a surety bond in the
21 sum of \$50,000, payable in a form satisfactory to the



1 department, to provide indemnification to any student
2 suffering a financial loss as a result of the school
3 not fulfilling its obligations under the terms of its
4 license; provided that the bonding requirement may be
5 reduced at the discretion of the department.

6 (c) A private trade, vocational, or technical school
7 applying for initial licensure shall pay an initial license fee
8 of \$10,000 to the department upon application for licensure
9 under this section.

10 (d) Every two years following the date of initial
11 licensure, a private trade, vocational, or technical school
12 shall apply for a renewal license by:

13 (1) Submitting all documents required under subsection
14 (b), with updated information as appropriate;

15 (2) Submitting a list of complaints officially filed with
16 the department of commerce and consumer affairs
17 pursuant to subsection (e); and

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

19 (e) Complaints alleging unfair or deceptive acts or
20 practices by a private trade, vocational, or technical school
21 shall be filed with the department of commerce and consumer



1 affairs for review, investigation, and appropriate
 2 recommendation for action, including appeals from action taken.
 3 The department of commerce and consumer affairs may assess a
 4 fine equal to a sum of not less than \$500 nor more than \$10,000
 5 for each violation. The penalties provided for in this
 6 subsection shall be cumulative to the remedies or penalties
 7 available under all other laws of this State. Each day that a
 8 violation occurs shall be considered a separate violation.

9 (f) Fees collected pursuant to this section shall be
 10 deposited into the private trade, vocational, and technical
 11 school licensure special fund established under section 302A- ;
 12 provided that fines collected pursuant to subsection (e) shall
 13 be deposited in the compliance resolution fund, established
 14 under section 26-9(o).

15 (g) The board may adopt rules relating to the enforcement
 16 of sections 302A-425 and 302A-426."

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

19 "(a) The department, after notice and opportunity for a
 20 hearing, may suspend or revoke a license at any time when, in
 21 the judgment of the department, the licensee is not complying



1 with [~~sections 302A-424 to 302A-428~~] section 302A-425 or the
2 rules that may be adopted by the board. The notice of hearing
3 shall be served personally or sent to the licensee by registered
4 or certified mail with return receipt at the licensee's last
5 known address."

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

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

12 SECTION 7. Section 302A-427, Hawaii Revised Statutes, is
13 repealed.

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



1 ~~reasonable rules relating to the enforcement of sections 302A-~~
2 ~~424 to 302A-428."~~]

3 SECTION 8. Section 302A-428, Hawaii Revised Statutes, is
4 repealed.

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

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

20 SECTION 10. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



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1 SECTION 11. This Act shall take effect on September 1,
2 2017.

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INTRODUCED BY:

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Report Title:

Private Trade, Vocational, or Technical Schools; Special Fund;
Licensing Fee

Description:

Requires licensure for certain private trade, vocational or technical schools. Creates a private trade, vocational, and technical school licensure special fund. Implements a licensure fee.

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

