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# 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 those in  
4 massage therapy, health care, tax preparation, and maritime  
5 activities.

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

15           The legislature finds that Act 57, Session Laws of Hawaii  
16 1998, amended section 302A-425, Hawaii Revised Statutes, to  
17 declare that the purpose of such regulation is to protect



1 consumers from false, deceptive, misleading, and unfair  
2 practices, and to ensure adequate educational quality. The  
3 legislature also finds that Auditor's Report No. 02-08, *A Study*  
4 *on the Licensing of Private Trade, Vocational, and Technical*  
5 *Schools*, acknowledged that the declaration of purpose added to  
6 section 302A-425, Hawaii Revised Statutes, brought into question  
7 the appropriateness of the program's administrative placement  
8 within the department of education.

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

17 The department of education's primary mission is  
18 kindergarten to twelfth grade education, and does not include  
19 the provision of post-secondary education or the regulation of  
20 post-secondary institutions. The legislature finds that the  
21 department of education does not currently have the capacity or



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

5 Accordingly, the purpose of this Act is to clarify the  
6 scope of the private trade, vocational, and technical school  
7 licensure program; clarify the types of schools the department  
8 of education is required to license; and establish a licensing  
9 fee to ensure the program's 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 designated as the private trade,  
16 vocational, and technical school licensure special fund into  
17 which shall be deposited:

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

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



1 Moneys in the private trade, vocational, and technical school  
2 licensure special fund shall be used to fund activities related  
3 to the licensure requirements established under section 302A-  
4 425, including funding for permanent staff positions and  
5 administrative and operational costs."

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

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

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

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

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



1 nature, [~~including correspondence schools located within the~~  
2 ~~State,~~] except [~~as 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)]~~ (3) Classes conducted for less than five students at  
12 one and the same time;

13 [~~(5)]~~ (4) Classes or courses of instruction that are  
14 conducted for twenty or fewer class sessions during  
15 any twelve-month period;

16 [~~(6)]~~ (5) Avocational, hobby, recreation, or health classes  
17 or courses;

18 [~~(7)]~~ (6) Courses of instruction on religious subjects  
19 given under the auspices of a religious organization;  
20 and



1       ~~[(+8)]~~ (7) Schools registered or authorized by the  
2           department of commerce and consumer affairs or by  
3           boards and commissions placed in the department of  
4           commerce and consumer affairs for administrative  
5           purposes."

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

8           "**§302A-425** ~~[License required for]~~ Licenseure of private  
9 trade, vocational, or technical school. ~~[No private trade,~~  
10 ~~vocational, or technical school shall be operated by any person~~  
11 ~~or persons, firm, or any other private organization or~~  
12 ~~corporation for the purpose of teaching any trade, occupation,~~  
13 ~~or vocation unless there is first secured from the department a~~  
14 ~~license issued in accordance with sections 302A 424 to 302A 428~~  
15 ~~and in such form as the department may direct.]~~ (a) The  
16 department shall license private trade, vocational, and  
17 technical schools as necessary for compliance with federal  
18 regulations and accreditation requirements. The purpose of the  
19 licensing and regulation is to protect consumers against  
20 practices by private trade, vocational, or technical schools  
21 that are false, deceptive, misleading, or unfair~~[, and to help~~



1 ~~ensure adequate educational quality at private trade,~~  
2 ~~vocational, or technical schools].~~ The department shall not be  
3 responsible for review of curriculum or assurance of program  
4 quality for those private trade, vocational, and technical  
5 schools whose curriculum or program falls outside of the  
6 department's mission.

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

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

20 (2) Proof of current business registration demonstrating  
21 good standing;



- 1       (3) A copy of the school's current general excise tax  
2       license, including a current tax clearance; and  
3       (4) Proof that the school has secured a surety bond in the  
4       sum of \$50,000, payable in a form satisfactory to the  
5       department, to provide indemnification to any student  
6       suffering a financial loss as a result of the school  
7       not fulfilling its obligations under the terms of its  
8       license; provided that the bonding requirement may be  
9       reduced at the discretion of the department.

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

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

- 17       (1) Submitting all documents required under subsection  
18       (b), with updated information as appropriate;  
19       (2) Submitting a list of complaints officially filed  
20       within the past two years with any state or federal  
21       government agency or directly with the school; and





1        (3) Paying a renewal licensure fee of \$ \_\_\_\_\_ .

2        (e) Complaints alleging unfair or deceptive acts or  
3 practices by a private trade, vocational, or technical school  
4 shall be filed with the appropriate branch of the department of  
5 commerce and consumer affairs for review, investigation, and  
6 appropriate recommendation for action, including appeals from  
7 action taken.

8        (f) Fees collected pursuant to this section shall be  
9 deposited into the private trade, vocational, and technical  
10 school licensure special fund.

11        (g) The department may adopt reasonable rules relating to  
12 the enforcement of sections 302A-425 to 302A-426."

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

15        "(a) The department, after notice and opportunity for a  
16 hearing, may suspend or revoke a license at any time when, in  
17 the judgment of the department, the licensee is not complying  
18 with [~~sections 302A-424 to 302A-428~~] section 302A-425 or the  
19 rules that may be adopted by the board. The notice of hearing  
20 shall be served personally or sent to the licensee by registered

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

3 SECTION 6. 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 7. Section 302A-427, Hawaii Revised Statutes, is  
10 repealed.

11 ~~["§302A-427] Powers of department. No license shall be~~  
12 ~~issued under sections 302A-424 to 302A-428 until the department~~  
13 ~~has approved the method and content of the advertising, the~~  
14 ~~standards and the methods of instruction, and the equipment~~  
15 ~~provided. The department may consult with trade or vocational~~  
16 ~~experts as to the equipment provided and the standards and~~  
17 ~~methods of instruction offered. The department may adopt~~  
18 ~~reasonable rules relating to the enforcement of sections 302A-~~  
19 ~~424 to 302A-428." ]~~

20 SECTION 8. Section 302A-428, Hawaii Revised Statutes, is  
21 repealed.



1           ~~["§302A-428] Penalty. Any person, firm, or corporation~~  
 2 ~~that violates sections 302A-424 to 302A-428 shall be guilty of a~~  
 3 ~~misdemeanor, but shall be subject to a maximum fine of not more~~  
 4 ~~than \$100 or imprisonment for not more than ninety days, or~~  
 5 ~~both." ]~~

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

16           SECTION 10. There is appropriated out of the general  
 17 revenues of the State of Hawaii the sum of \$                    or so  
 18 much thereof as may be necessary for fiscal year 2017-2018 and  
 19 the same sum or so much thereof as may be necessary for fiscal  
 20 year 2018-2019 to be deposited into the private trade,  
 21 vocational, and technical school licensure special fund.



1 SECTION 11. There is appropriated out of the private  
2 trade, vocational, and technical school licensure special fund  
3 the sum of \$ or so much thereof as may be necessary  
4 for fiscal year 2017-2018 and the same sum or so much thereof as  
5 may be necessary for fiscal year 2018-2019 for administrative  
6 costs associated with licensure of private trade, vocational, or  
7 technical schools, including establishing one permanent full-  
8 time equivalent (1.0 FTE) position within the department of  
9 education.

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

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

14 SECTION 13. This Act shall take effect on July 1, 2050.



**Report Title:**

Private Trade, Vocational, and Technical Schools; Licensing;  
Licensing Fee; Appropriation

**Description:**

Clarifies the scope of the private trade, vocational, and technical school licensure program within the department of education. Establishes a licensing fee to ensure the sustainability of the licensure program. Establishes a license renewal process and fee. Creates the private trade, vocational, and technical school licensure special fund. Appropriates moneys for one full-time equivalent position within the department of education to administer licensing. Effective 07/01/2050. (SD2)

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