

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO POST-SECONDARY EDUCATION.

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

1           SECTION 1. Chapter 305J, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§305J-      Authorization to operate in the State; pilot  
5 schools. To operate in this State pursuant to this chapter, a  
6 pilot school shall be a private flight school that:

7           (1) Has a physical presence in the State;

8           (2) Is approved by the Federal Aviation Administration;  
9           and

10          (3) Offers an accredited professional pilot program that  
11           confers an advanced certificate for certified flight  
12           instructors."

13          SECTION 2. Section 305J-2, Hawaii Revised Statutes, is  
14 amended as follows:

15          1. By adding two new definitions to be appropriately  
16 inserted and to read:



1        "Institution" means a private college or university,  
2 seminary, religious training institution, or pilot school that  
3 is subject to this chapter, unless the context requires  
4 otherwise.

5        "Pilot school" means a pilot school as set forth in section  
6 305J- ."

7        2. By amending the definition for "authorization" to read:

8        "Authorization" means the authorization granted to [a  
9 ~~private college or university, seminary, or religious training~~]  
10 an institution as provided in this chapter and any applicable  
11 rules and policies. Authorization is not an endorsement by the  
12 department."

13        3. By amending the definition of "enrollment agreement" to  
14 read:

15        "Enrollment agreement" means the contract prepared by [a  
16 ~~private college or university, seminary, or religious training~~]  
17 an institution that a student signs to indicate agreement to the  
18 terms of admission, delivery of instruction, and monetary terms  
19 as outlined in the [~~private college, university, seminary, or~~  
20 ~~religious training~~] institution's student handbook or catalog."



1           4. By amending the definition of "governing board" to  
2 read:

3           "\"Governing board\" means the elected or appointed group of  
4 persons that oversees and controls [~~a private college or~~  
5 ~~university, seminary, or religious training~~] an institution.\"

6           SECTION 3. Section 305J-3, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8           \"(a) This chapter shall not apply to:

- 9           (1) Schools or educational programs conducted by firms,  
10           corporations, or persons for the training of their own  
11           employees;
- 12           (2) Apprenticeship or other training programs provided by  
13           labor unions to union members or applicants for union  
14           membership;
- 15           (3) Schools or educational programs that provide courses  
16           of instruction that do not lead to the conferring of a  
17           degree [~~+~~], except as provided in section 305J- ;
- 18           (4) Schools or educational programs that offer seminars,  
19           refresher courses, and programs of instruction  
20           sponsored by professional, business, or farming



- 1 organizations or associations for their members or the  
2 employees of their members;
- 3 (5) Schools or educational programs that offer courses of  
4 instruction conducted by public school complex areas;
- 5 (6) Schools, courses of instruction, or courses of  
6 training that are offered by a vendor or the purchaser  
7 or prospective purchaser of the vendor's product when  
8 the objective of the school or course is to enable the  
9 purchaser or the purchaser's employees to gain the  
10 skills and knowledge necessary to use the product;
- 11 (7) Schools and educational programs conducted by  
12 religious entities that are owned, controlled,  
13 operated, and maintained by a religious organization  
14 lawfully operating as a nonprofit religious  
15 corporation and that award only religious degrees or  
16 certificates, including but not limited to a  
17 certificate of Talmudic studies, an associate of  
18 Biblical studies, a bachelor of religious studies, a  
19 master of divinity, or a doctor of divinity;
- 20 (8) Non-degree-granting post-secondary educational  
21 institutions licensed by any entity of the State or



1           governed by any other chapter of the Hawaii Revised  
2           Statutes;

3           (9) Schools and educational programs that offer courses of  
4           instruction exclusively through online and distance  
5           education; and

6           (10) Unaccredited post-secondary educational institutions  
7           governed by chapter 446E."

8           SECTION 4. Section 305J-6, Hawaii Revised Statutes, is  
9           amended by amending subsections (b) and (c) to read as follows:

10          "(b) To administer this chapter, the department shall:

11          (1) Maintain a list of the [~~private colleges or~~  
12          ~~universities, seminaries, and religious training~~]  
13          institutions that have been authorized and make this  
14          list available to the public;

15          (2) Maintain a list of the states with which the director  
16          has entered into a post-secondary education  
17          authorization reciprocity agreement and make this list  
18          available to the public; and

19          (3) Receive, arbitrate, investigate, and process  
20          complaints.



1 (c) In conducting an investigation, the department may  
2 physically inspect the [~~private college or university, seminary,~~  
3 ~~or religious training~~] institution's facilities and records, and  
4 the institution shall have an affirmative duty to cooperate with  
5 requests from the department for information regarding any  
6 investigation or inspection."

7 SECTION 5. Section 305J-10, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[~~§~~305J-10~~]~~ **Reauthorization.** (a) A private college  
10 or university that is authorized pursuant to section 305J-8 and  
11 maintains its accreditation shall apply to the department for  
12 reauthorization every two years. A private college or  
13 university that has its accreditation reaffirmed without  
14 sanction and continues to demonstrate its compliance with  
15 section 305J-14, shall otherwise be presumed to be qualified for  
16 reauthorization under this chapter for a period of two years.

17 (b) A seminary or religious training institution  
18 authorized pursuant to section 305J-9 shall apply to the  
19 department for reauthorization every two years. A seminary or  
20 religious training institution that continues to meet the  
21 authorization requirements of this chapter shall otherwise be



1 presumed to be qualified for reauthorization under this chapter  
2 for a period of two years.

3 (c) [~~Private colleges or universities, seminaries, and~~  
4 ~~religious training institutions~~] A pilot school authorized  
5 pursuant to section 305J- shall apply to the department for  
6 reauthorization every two years. A pilot school that continues  
7 to meet the authorization requirements of this chapter shall  
8 otherwise be presumed to be qualified for reauthorization under  
9 this chapter for a period of two years.

10 (d) Institutions applying for reauthorization under this  
11 section shall pay the fees required pursuant to section 305J-18.

12 [~~(d)~~] (e) If [~~a private college or university, seminary,~~  
13 ~~or religious training~~] an institution cannot demonstrate that it  
14 meets the authorization requirements of this chapter, the  
15 director shall deny the application for reauthorization. The  
16 director shall provide the [~~private college or university,~~  
17 ~~seminary, or religious training~~] institution with written  
18 notification of the denial of the application for  
19 reauthorization and the basis for the denial. If, within six  
20 months of receiving notice that its application for  
21 reauthorization has been denied, the [~~private college or~~



1 ~~university, seminary, or religious training]~~ institution  
2 corrects the action or condition upon which the denial was  
3 based, it may reapply for reauthorization. If the [~~private~~  
4 ~~college or university, seminary, or religious training]~~  
5 institution does not correct the action or condition upon which  
6 the denial was based, it may submit a new application for  
7 authorization pursuant to section 305J-8 or 305J-9, whichever is  
8 applicable, once the action or condition has been corrected.

9 ~~[(e)]~~ (f) If a private college or university is under a  
10 sanction from its accrediting body at the time that it submits  
11 its application for reauthorization, the director may:

- 12 (1) Approve the private college or university's  
13 reauthorization; or  
14 (2) Grant probationary approval of the private college or  
15 university's reauthorization; provided that if the  
16 private college or university is granted probationary  
17 reauthorization:  
18 (A) The department shall provide the private college  
19 or university with written notice of its  
20 probationary status;





1           (B) The private college or university shall reapply  
2           for reauthorization on an annual basis until the  
3           accrediting body lifts its sanction; and

4           (C) The private college or university shall provide  
5           the department with an annual report on its  
6           progress toward removing the sanction."

7           SECTION 6. Section 305J-11, Hawaii Revised Statutes, is  
8           amended by amending subsections (b) and (c) to read as follows:

9           "(b) It shall be a violation of this chapter for [a  
10          ~~private college or university, seminary, or religious training~~  
11          an institution or its agent to:

12           (1) Make or cause to be made any statement or  
13           representation, oral, written, or visual, in  
14           connection with the offering of educational services  
15           if the [~~private college or university, seminary, or~~  
16           ~~religious training~~] institution or its agent knows or  
17           reasonably should have known the statement or  
18           representation to be false, inaccurate, or materially  
19           misleading;

20           (2) Falsely represent or deceptively conceal, directly or  
21           by implication, through the use of a trade or business



1 name, the fact that the institution is a private  
2 college or university, seminary, [e] religious  
3 training institution[+], or pilot school;

4 (3) Adopt a name, trade name, or trademark that represents  
5 falsely, directly or by implication, the quality,  
6 scope, nature, size, or integrity of the [private  
7 ~~college or university, seminary, or religious~~  
8 ~~training~~] institution or its educational services;

9 (4) Intentionally and materially represent falsely,  
10 directly or by implication, that students who  
11 successfully complete a course or program of  
12 instruction may transfer the credits earned to any  
13 institution of higher education;

14 (5) Intentionally and materially represent falsely,  
15 directly or by implication, in its promotional  
16 materials or in any other manner:

17 (A) Its size, location, facilities, or equipment;

18 (B) The number, educational experience, or  
19 qualifications of its faculty;

20 (C) The extent or nature of any approval received  
21 from any state agency; or



- 1 (D) The extent or nature of any accreditation  
2 received from any accrediting agency, body, or  
3 association;
- 4 (6) Provide prospective students with testimonials,  
5 endorsements, or other information that has the  
6 tendency to mislead or deceive prospective students or  
7 the public regarding its current practices;
- 8 (7) Designate or refer to its sales representatives by  
9 titles that imply that the sales representatives have  
10 training in academic counseling or advising if they do  
11 not; and
- 12 (8) Represent, directly or by implication, that it is  
13 authorized by the State or approved or accredited by  
14 an accrediting agency or body when it has not been  
15 authorized, approved, or accredited.
- 16 (c) Any [~~private college or university, seminary, or~~  
17 ~~religious training~~] institution or its agent that violates this  
18 chapter may be subject to one or more of the following  
19 sanctions:
- 20 (1) A fine equal to a sum of not less than \$500 or more  
21 than \$10,000 for each violation. The penalties



1 provided in this subsection are cumulative to the  
2 remedies or penalties available under all other laws  
3 of this State. Each day that a violation occurs shall  
4 be considered a separate violation;

5 (2) An order directing corrective action on the part of  
6 the institution;

7 (3) An order of restitution to one or more affected  
8 students;

9 (4) Revocation, suspension, probation, or conditions on  
10 the institution's authorization;

11 (5) An order relating to cessation of operations or  
12 alternate enrollment; or

13 (6) The payment of costs of investigation and legal  
14 action, irrespective of the outcome."

15 SECTION 7. Section 305J-12, Hawaii Revised Statutes, is  
16 amended as follows:

17 1. By amending subsection (b) to read:

18 "(b) An institution's authorization shall be placed on  
19 probationary status without further action by the department in  
20 the event that:



- 1           (1) The institution is placed on probationary status by  
2           its accrediting agency, contemporaneous with the  
3           action of such agency;
- 4           (2) The institution's accrediting agency ceases to be  
5           recognized by the United States Department of  
6           Education; [~~or~~]
- 7           (3) In the case of a seminary or religious training  
8           institution, the seminary or religious training  
9           institution no longer meets the definition of such  
10          under this chapter~~[-]~~; or
- 11          (4) In the case of a pilot school, the pilot school no  
12          longer meets the definition of such under this  
13          chapter."
- 14          2. By amending subsection (e) to read:
- 15          "(e) [~~A private college or university, seminary, or~~  
16          ~~religious training]~~ An institution that is authorized pursuant  
17          to this chapter shall:
- 18               (1) Not make or cause to be made any oral, written, or  
19               visual statement or representation that violates  
20               section 305J-11(b);



- 1           (2) Provide the department with a copy of its enrollment  
2           agreement, if applicable, in accordance with its  
3           reauthorization schedule;
- 4           (3) Provide bona fide instruction, in accordance with the  
5           standards and criteria set by its accrediting body;  
6           and
- 7           (4) If its ownership changes, provide the department with  
8           any material information concerning the transaction at  
9           least thirty days prior to the transaction."

10           SECTION 8. Section 305J-13, Hawaii Revised Statutes, is  
11 amended by amending subsections (a) and (b) to read as follows:

12           "(a) If a private college or university, seminary, [æ]  
13 religious training institution, or pilot school under the  
14 jurisdiction of the department ceases operating within the  
15 State, the institution, its owner, or the owner's designee, and  
16 its governing board shall be jointly and severally liable to  
17 deposit with the department the institution's educational  
18 records requested by the department in a form to be prescribed  
19 by the director.

20           (b) If the director determines that the records of [a  
21 ~~private college or university, seminary, or religious training~~]



1 an institution that ceases operating within the State are in  
2 danger of being destroyed, secreted, mislaid, or otherwise made  
3 unavailable to the department, the director may seek a court  
4 order authorizing the department to seize or take possession of  
5 the records and seek additional relief as may be appropriate."

6 SECTION 9. Section 305J-14, Hawaii Revised Statutes, is  
7 amended by amending subsection (j) to read as follows:

8 "(j) A seminary, ~~[or]~~ religious training institution, or  
9 pilot school shall not be subject to the requirements of this  
10 section."

11 SECTION 10. Section 305J-15, Hawaii Revised Statutes, is  
12 amended by amending subsection (h) to read as follows:

13 "(h) A seminary, ~~[or]~~ religious training institution, or  
14 pilot school shall not be subject to the requirements of this  
15 section."

16 SECTION 11. Section 305J-17, Hawaii Revised Statutes, is  
17 amended as follows:

18 1. By amending subsection (a) to read:

19 "(a) A student or former student of the University of  
20 Hawaii system, a private college or university, seminary, ~~[or]~~  
21 religious training institution, or pilot school may file a



1 complaint with the department concerning the institution at  
2 which the student is or was enrolled; provided that if a former  
3 student files a complaint, the complaint shall be filed within  
4 two years after the former student discontinued enrollment at  
5 the institution; provided that the [~~two-year~~] two-year  
6 restriction on complaints shall not apply to complaints related  
7 to obtaining transcripts."

8 2. By amending subsections (c), (d) and (e) to read:

9 "(c) Nothing in this section shall give the department  
10 jurisdiction to consider complaints that infringe on the  
11 academic or religious freedom of, or question the curriculum  
12 content of, [~~a private college or university, seminary, or~~  
13 ~~religious training~~] an institution.

14 (d) Upon receipt of a complaint pursuant to  
15 [{}subsection[{}]] (a) or (b), the department shall determine  
16 whether the complaint was properly filed. The complaint shall  
17 warrant investigation only after the student or former student  
18 has exhausted all administrative remedies available at the  
19 University of Hawaii system, private college or university,  
20 seminary, [~~or~~] religious training institution[{}], or pilot  
21 school; provided that if the complaint involves a violation of





1 state or federal criminal law, this requirement shall not apply.  
2 If a complaint warrants investigation, the department shall  
3 forward the complaint to the University of Hawaii system,  
4 private college or university, seminary, [~~or~~] religious training  
5 institution[-], or pilot school. The University of Hawaii  
6 system, private college or university, seminary, [~~or~~] religious  
7 training institution, or pilot school shall have thirty days to  
8 respond in writing to the complaint. During the thirty-day  
9 period, the University of Hawaii system, private college or  
10 university, seminary, [~~or~~] religious training institution, or  
11 pilot school, with the department's assistance, may attempt to  
12 resolve the complaint with the student. If the department  
13 determines at any time that the complaint no longer warrants  
14 investigation, the department shall dismiss the complaint.

15 (e) If a complaint is not resolved within the thirty-day  
16 period, the department may:

17 (1) Dismiss the complaint based on the response of the  
18 University of Hawaii system, private college or  
19 university, seminary, [~~or~~] religious training  
20 institution[+], or pilot school; or



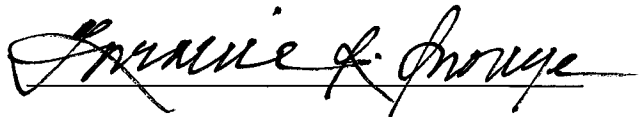
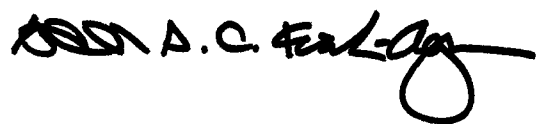
1 (2) Investigate and, where appropriate, take disciplinary  
2 action in a manner consistent with chapter 91."

3 SECTION 12. This Act does not affect rights and duties  
4 that matured, penalties that were incurred, and proceedings that  
5 were begun before its effective date.

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

8 SECTION 14. This Act shall take effect on July 1, 2017.

9

INTRODUCED BY:   




# S.B. NO. 651

**Report Title:**

Hawaii Post-secondary Education Authorization Program; FAA-Approved Pilot Schools

**Description:**

Makes pilot schools that are approved and certificated by the Federal Aviation Administration subject to the oversight of the Hawaii Post-secondary Education Authorization Program.

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