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# A BILL FOR AN ACT

RELATING TO SCHOOL LICENSURE.

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

1           SECTION 1. The legislature finds that historically, the  
2 regulation of private trade, vocational, and technical schools  
3 was primarily aimed at ensuring the quality of education and  
4 instruction below the college level. As vocational education  
5 has become more diverse and specialized, the focus has shifted  
6 toward protecting consumers from false, deceptive, misleading,  
7 and unfair practices while ensuring adequate educational  
8 quality.

9           The legislature further finds that various audits and  
10 legislative assessments, including those conducted in 1997,  
11 2002, and subsequent years, consistently highlight the  
12 department of education's lack of expertise, capacity, and  
13 alignment with consumer protection functions necessary for  
14 effective oversight of private trade, vocational, and technical  
15 schools. This gap in capability has raised concerns about the  
16 adequacy of consumer protection measures and the quality of  
17 education provided by these institutions.





1 "Department" means the department of commerce and consumer  
2 affairs.

3 "Private trade, vocational, or technical school" means an  
4 organization or corporation that provides instruction in any  
5 form or manner in any trade, occupation, or vocation for a  
6 consideration, reward, or promise of whatever nature, except:

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



1           §   -2   **Licensure of private trade, vocational, or**  
2 **technical school.** (a) The department shall license private  
3 trade, vocational, and technical schools as necessary for:

- 4           (1) Compliance with federal regulations or accreditation  
5                 requirements;
- 6           (2) Qualifying the private trade, vocational, or technical  
7                 school for federal, state, or private funding; or
- 8           (3) Qualifying graduates of the private trade, vocational,  
9                 or technical school for professional licensure.

10           The purpose of the licensing is to protect consumers  
11 against practices by private trade, vocational, or technical  
12 schools that are false, deceptive, misleading, or unfair.

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

- 17           (1) Proof that the school is accredited by an accrediting  
18                 commission of career schools and colleges, accrediting  
19                 council for continuing education and training, or an  
20                 accrediting bureau of health education schools;  
21                 provided that in lieu of such accreditation, the



1 school may provide a letter from the relevant state,  
 2 federal, or other licensing authority demonstrating  
 3 that the private trade, vocational, or technical  
 4 school's curriculum is sufficient to prepare a  
 5 graduate to qualify for professional licensure;

6 (2) Proof of current business registration demonstrating  
 7 good standing;

8 (3) A copy of the school's current general excise and tax  
 9 license, including a current tax clearance; and

10 (4) Proof that the school has secured a surety bond in the  
 11 sum of \$50,000, payable in a form satisfactory to the  
 12 department, to provide indemnification to any student  
 13 suffering a financial loss as a result of the school  
 14 not fulfilling its obligations under the terms of its  
 15 license; provided that the bonding requirement may be  
 16 reduced at the discretion of the department.

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



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

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

6 (2) Submitting a list of complaints officially filed  
7 within the past two years with any state or federal  
8 government agency or directly with the school; and

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

10 (e) Complaints alleging unfair or deceptive acts or  
11 practices by a private trade, vocational, or technical school  
12 shall be filed with the appropriate branch of the department for  
13 review, investigation, and appropriate recommendation for  
14 action, including appeals from action taken.

15 (f) Fees collected pursuant to this section shall be  
16 deposited into the general fund.

17 (g) The department may adopt reasonable rules relating to  
18 the implementation of this section and section -3.

19 **§ -3 Suspension and revocation of license; procedure.**

20 (a) The department, after notice and opportunity for a hearing,  
21 may suspend or revoke a license at any time when, in the



1 judgment of the department, the licensee is not complying with  
 2 section -2 or the rules that may be adopted by the  
 3 department. The notice of hearing shall be served personally or  
 4 sent to the licensee by registered or certified mail with return  
 5 receipt at the licensee's last known address.

6 (b) Notice of suspension or revocation shall be served  
 7 personally upon the licensee or sent to the licensee by  
 8 registered or certified mail with return receipt, and the  
 9 licensee shall forward the licensee's license at once to the  
 10 department, and cease at once to operate the private trade,  
 11 vocational, or technical school.

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

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

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

16 ""License" means the recognition granted by the Hawaii  
 17 teacher standards board to an individual to practice the  
 18 profession of teaching. [~~This definition shall not apply to the~~  
 19 ~~term "license" as it is used in sections 302A-425 and 302A-~~  
 20 ~~426.]"~~



1           2. By repealing the definition of "private trade,  
2 vocational, or technical school":

3           ~~["Private trade, vocational, or technical school" means an~~  
4 ~~organization or corporation that provides instruction in any~~  
5 ~~form or manner in any trade, occupation, or vocation for a~~  
6 ~~consideration, reward, or promise of whatever nature, except:~~

7           ~~(1) Schools maintained, or classes conducted, by employers~~  
8           ~~for their own employees where no fee or tuition is~~  
9           ~~charged;~~

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

13          ~~(3) Classes conducted for less than five students at one~~  
14          ~~and the same time;~~

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

18          ~~(5) Avocational, hobby, recreation, or health classes or~~  
19          ~~courses;~~

20          ~~(6) Courses of instruction on religious subjects given~~  
21          ~~under the auspices of a religious organization; and~~



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

5       SECTION 4. Section 302A-425, Hawaii Revised Statutes, is  
 6       repealed.

7       ~~["§302A-425 Licensure of private trade, vocational, or~~  
 8       ~~technical school. (a) The department shall license private~~

9       ~~trade, vocational, and technical schools as necessary for:~~

10       ~~(1) Compliance with federal regulations or accreditation~~  
 11       ~~requirements;~~

12       ~~(2) Qualifying the private trade, vocational, or technical~~  
 13       ~~school for federal, state, or private funding; or~~

14       ~~(3) Qualifying graduates of the private trade, vocational,~~  
 15       ~~or technical school for professional licensure.~~

16       ~~The purpose of the licensing and regulation is to protect~~  
 17       ~~consumers against practices by private trade, vocational, or~~  
 18       ~~technical schools that are false, deceptive, misleading, or~~  
 19       ~~unfair. The department shall not be responsible for review of~~  
 20       ~~curriculum or assurance of program quality for those private~~



1 ~~trade, vocational, and technical schools whose curriculum or~~  
2 ~~program falls outside of the department's mission.~~

3 ~~(b) A private trade, vocational, or technical school that~~  
4 ~~requires licensure under subsection (a) shall submit the~~  
5 ~~following to the department in such form as the department may~~  
6 ~~direct:~~

- 7 ~~(1) Proof that the school is accredited by an accrediting~~  
8 ~~commission of career schools and colleges, accrediting~~  
9 ~~council for continuing education and training, or an~~  
10 ~~accrediting bureau of health education schools;~~  
11 ~~provided that in lieu of such accreditation, the~~  
12 ~~school may provide a letter from the relevant state,~~  
13 ~~federal, or other licensing authority demonstrating~~  
14 ~~that the private trade, vocational, or technical~~  
15 ~~school's curriculum is sufficient to prepare a~~  
16 ~~graduate to qualify for professional licensure;~~
- 17 ~~(2) Proof of current business registration demonstrating~~  
18 ~~good standing;~~
- 19 ~~(3) A copy of the school's current general excise tax~~  
20 ~~license, including a current tax clearance; and~~



1       ~~(4) Proof that the school has secured a surety bond in the~~  
2           ~~sum of \$50,000, payable in a form satisfactory to the~~  
3           ~~department, to provide indemnification to any student~~  
4           ~~suffering a financial loss as a result of the school~~  
5           ~~not fulfilling its obligations under the terms of its~~  
6           ~~license; provided that the bonding requirement may be~~  
7           ~~reduced at the discretion of the department.~~

8       ~~(c) A private trade, vocational, or technical school~~  
9       ~~applying for initial licensure after December 31, 2017, shall~~  
10       ~~pay an initial license fee of \$2,000 to the department upon~~  
11       ~~application for licensure under this section.~~

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

15       ~~(1) Submitting all documents required under subsection~~

16           ~~(b), with updated information as appropriate;~~

17       ~~(2) Submitting a list of complaints officially filed~~  
18           ~~within the past two years with any state or federal~~  
19           ~~government agency or directly with the school; and~~



1       ~~(3) For any application for license renewal submitted~~  
2               ~~after December 31, 2017, paying a renewal licensure~~  
3               ~~fee of \$2,000.~~

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

10       ~~(f) Fees collected pursuant to this section shall be~~  
11 ~~deposited into the general fund.~~

12       ~~(g) The department may adopt reasonable rules relating to~~  
13 ~~the implementation of this section and section 302A-426." ]~~

14       SECTION 5. Section 302A-426, Hawaii Revised Statutes, is  
15 repealed.

16       ~~["§302A-426 Suspension and revocation of license;~~

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



1 ~~to the licensee by registered or certified mail with return~~  
2 ~~receipt at the licensee's last known address.~~

3 ~~(b) Notice of suspension or revocation shall be served~~  
4 ~~personally upon the licensee or sent to the licensee by~~  
5 ~~registered or certified mail with return receipt, and the~~  
6 ~~licensee shall forward the licensee's license at once to the~~  
7 ~~department, and cease at once to operate the private trade,~~  
8 ~~vocational, or technical school.~~

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

10 SECTION 6. All rights, powers, functions, and duties  
11 previously performed by the department of education under  
12 sections 302A-425 and 302A-426, Hawaii Revised Statutes, are  
13 transferred to the department of commerce and consumer affairs.

14 SECTION 7. All rules, policies, procedures, guidelines,  
15 and other material adopted or developed by the department of  
16 education to implement provisions of the Hawaii Revised Statutes  
17 that are reenacted or made applicable to the department of  
18 commerce and consumer affairs by this Act shall remain in full  
19 force and effect until amended or repealed by the department of  
20 commerce and consumer affairs pursuant to chapter 91, Hawaii  
21 Revised Statutes.



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

6           SECTION 8. All deeds, leases, contracts, loans,  
7 agreements, permits, or other documents executed or entered into  
8 by or on behalf of the department of education pursuant to  
9 sections 302A-425 and 302A-426, Hawaii Revised Statutes, shall  
10 remain in full force and effect. Upon the effective date of  
11 this Act, every reference to the department of education or the  
12 superintendent of education therein shall be construed as  
13 reference to the department of commerce and consumer affairs or  
14 the director of commerce and consumer affairs, as appropriate.

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



1 SECTION 10. All officers and employees whose functions are  
2 transferred by this Act shall be transferred with their  
3 functions and shall continue to perform their regular duties  
4 upon their transfer, subject to the state personnel laws and  
5 this Act.

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

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



1 provided that such officer or employee possesses the minimum  
2 qualifications for the position to which transferred or  
3 appointed.

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

12 SECTION 11. The department of education and the department  
13 of commerce and consumer affairs shall collaborate to implement  
14 the transfers and transitions required under this Act with as  
15 little disruption as possible to ongoing duties,  
16 responsibilities, and public services provided.

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

19 SECTION 13. This Act shall take effect on July 1, 3000.



**Report Title:**

DOE; DCCA; Private Trade, Vocational, and Technical Schools;  
Licensing

**Description:**

Transfers the licensing authority of private trade, vocational,  
and technical schools from the Department of Education to the  
Department of Commerce and Consumer Affairs. Effective  
7/1/3000. (HD1)

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

