

CHAPTER 99

(HB 281)

AN ACT relating to proprietary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. KRS 165A.310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Agent" means any person employed by a proprietary school to act as agent, solicitor, broker, or independent contractor to procure students for the school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school;*
- (2) *"CDL" means a commercial driver's license as defined in KRS 281A.010;*
- (3) *"CDL driver training" means a course of study that complies with the provisions of KRS 332.095 governing the instruction of persons in the operation of commercial motor vehicles;*
- (4) *"CDL driver training school" means any person, firm, partnership, association, educational institution, establishment, agency, organization, or corporation that offers CDL driver training to persons desiring to obtain a Kentucky CDL in order to operate a commercial motor vehicle and for which a fee or tuition is charged;*
- (5) *"Commercial motor vehicle" has the same meaning as in KRS 281A.010;*
- (6) *"Commission" means the Kentucky Commission on Proprietary Education;*
- (7) *"Formal complaint" means a written statement filed on a form specified by the commission in which the complainant alleges that a school has violated a Kentucky statute or administrative regulation and has negatively impacted the complainant, and resolution is requested by the commission;*
- (8) *"License" means authorization issued by the commission to operate or to contract to operate a proprietary school in Kentucky as described in this chapter and does not reflect accreditation, supervision, endorsement, or recommendation by the commission;*
- (9) *"Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;*
- (10) *"Proprietary school" or "school" means a privately owned for-profit educational institution, establishment, agency, organization, or person offering or administering a plan, course, or program of instruction in business, trade, technical, industrial, or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method, and does not include:*
 - (a) *A school or educational institution supported entirely or partly by taxation from either a local or state source;*
 - (b) *A parochial, denominational, or eleemosynary school or institution;*
 - (c) *A training program which offers instruction for payment by participants primarily in pursuit of a hobby, recreation, or entertainment, and does not result in the granting of postsecondary credits nor lead to an industry-recognized credential, academic certificate, or degree;*
 - (d) *A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee; or*
 - (e) *A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, the Kentucky Board of Embalmers and Funeral Directors established by KRS 316.170, or the Kentucky Council on Postsecondary Education established by KRS 164.011;*

- (11) *"Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement;*
- (12) *"School year" is beginning the first day of July and ending the thirtieth day of June next following, except when approval shall be suspended or canceled pursuant to the provisions of Section 4 of this Act; and*
- (13) *"Statement of quality assurance" means a statement required by the commission from a non-degree granting institution, in a form and manner determined by the commission, that attests to the institution meeting the minimum standards required for receiving and maintaining a license.*

➔Section 2. KRS 165A.330 is amended to read as follows:

- (1) No person shall conduct, operate, maintain, or establish a proprietary school as herein defined or use any words which designate or tend to designate to the public that the operator of the school is qualified to conduct, operate, and maintain the school, unless he holds a valid current license from the commission.
- (2) Completed applications for a license shall be filed with the commission thirty (30) working days prior to being considered by the commission.
- (3) Renewal applications shall be filed **annually** with the commission **forty-five (45) days prior to the** ~~by May 15, prior to the June 30~~ expiration date.
- (4) The school owner shall notify the commission if any personnel involved in the applicant school has ever been associated as owner, partner, director, or other administrator with a school that has had its license revoked or that has closed and caused students a loss of money. The commission may consider this information in granting, renewing, or revoking a license.
- (5) No person shall in any way solicit any person or group of persons in this state to enroll at or attend any such school unless the person holds a valid license as agent of the school for which he **or she** is soliciting.

➔Section 3. KRS 165A.340 is amended to read as follows:

- (1) The Kentucky Commission on Proprietary Education is hereby created as an independent agency of the Commonwealth and shall be attached to the Education and Workforce Development Cabinet for administrative purposes. The commission shall be composed of the following members:
 - (a) Two (2) members who are representative of privately owned for-profit postsecondary educational institutions licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;
 - (b) Two (2) members who are representative of privately owned for-profit postsecondary technical schools licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;
 - (c) Four (4) members who are representative of the public at large with a background in education, business, or industry in Kentucky and appointed by the Governor;
 - (d) The secretary of the Education and Workforce Development Cabinet, or the secretary's designee;
 - (e) The president of the Council on Postsecondary Education, or the president's designee; and
 - (f) The commissioner of education, or the commissioner's designee.
- (2) Initial terms of appointed members shall be staggered by the Governor. Thereafter, terms shall be four (4) years or until successors are duly appointed and qualified. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment. An appointed member shall not serve more than two (2) consecutive full terms, except that a member may be reappointed after a break in service of one (1) full term.
- (3) The commission shall employ and fix the compensation of an executive director, who shall be its secretary and principal executive officer. The executive director shall have a background in the regulation of commerce, business, or education, and shall be responsible for:
 - (a) Organizing and staffing meetings of the commission;
 - (b) Establishing policies to ensure retention of original licensing documentation;

- (c) Ensuring that minutes and other financial, procedural, complaint, and operational records are securely maintained and archived;
 - (d) Internal and external correspondence and communication;
 - (e) Submitting reports and strategic agenda items for review and approval;
 - (f) Assisting the commission in the promulgation of administrative regulations;
 - (g) Carrying out policy and program directives of the commission;
 - (h) Preparing budget submissions;
 - (i) Ensuring that formal complaints are provided to the complaint committee and arranging for independent investigations as needed;
 - (j) Ensuring that an independent audit of the commission's finances is conducted **biennially**~~annually~~;
 - (k) Ensuring that formal written agreements are executed for the procurement of administrative and legal services;
 - (l) Formalizing office policies and procedures relating to licensing and financial operations;
 - (m) Developing and implementing a process for monitoring expenditures and reconciling on a monthly basis commission and student protection fund receipts reported in the Enhanced Management Administrative Reporting System (EMARS); and
 - (n) Other activities necessary to ensure that the commission meets its designated duties and responsibilities.
- (4) The commission shall have full authority to employ and fix the compensation for any personnel, including counsel, as it may deem necessary to effectively administer and enforce the provisions of this chapter. The commission shall obtain office space, furniture, stationery, and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.
- (5) The commission shall annually elect a chairperson. The chairperson shall not be a school representative appointed pursuant to subsection (1)(a) or (b) of this section.
- (6) (a) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish:
- 1. Commission operating and accountability procedures;
 - 2. Requirements for each licensed institution to publicly disclose according to standardized protocols, both in print and Web-based materials, information about:
 - a. Any information that the schools are required to report by the federal Higher Education Opportunity Act, Pub. L. No. 110-315, using the Integrated Postsecondary Education Data System (IPEDS) of the National Center for Educational Statistics as a condition of participating in Title IV federal financial aid programs;
 - b. The job placement rate of program graduates in the field of study and the types of jobs for which graduates are eligible;
 - c. Articulation agreements with other postsecondary educational institutions and the rights and responsibilities of students regarding transfer of credits;
 - d. The complaint procedures available to students; and
 - e. The existence of the student protection fund created in KRS 165A.450, and procedures for students to file a claim, including but not limited to the documentation required for submission of a claim;
 - 3. Quality standards and compliance monitoring schedules of traditional programs, correspondence courses, and Web-based, distance learning courses offered over the Internet;
 - 4. ***Advertising requirements for schools issued a license, including no distribution of materials containing untrue, deceptive, or misleading statements and no representation that the commission is an accrediting agency for the school or its programs;***

5. A schedule for reviewing advertisements and recruitment materials and practices of member institutions to ensure compliance with this chapter;
 - 6.~~5~~ An equitable structure of licensure and renewal fees, to be paid by licensed schools, necessary to carry out the provisions and purposes of this chapter and to support adequate staffing of commission responsibilities. The fee structure shall be based on the gross revenue of licensed schools, number of students enrolled, and whether the school is located within the state or outside the state; and
 - 7.~~6~~ The method for calculating placement rates that are to be disclosed pursuant to this subsection.
- (b) The commission shall have the authority to promulgate other administrative regulations, in cooperation with the Kentucky Department of Education and the Council on Postsecondary Education, as it deems necessary for the proper administration of this chapter.
- (7) The commission shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places within this state as the commission may designate. The majority of the members shall constitute a quorum, and all meetings shall be conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850.
 - (8) The commission may sue and be sued in its own name.
 - (9) Commission members shall receive a per diem of one hundred dollars (\$100) for attendance at each commission meeting and may be reimbursed for ordinary travel and other expenses while engaged in the business of the commission.
 - (10) The commission shall administer and enforce the provisions of this chapter pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.
 - (11) The commission shall have the power to subpoena witnesses and school records as it deems necessary.
 - (12) The commission chairperson shall appoint a complaint committee and designate its chairperson. The chairperson of the complaint committee shall not be employed by, have ownership interest in, or be otherwise affiliated with a licensed institution. School representatives appointed pursuant to subsection (1)(a) or (b) of this section shall not constitute a majority of the committee's membership. A committee member shall not vote on a matter in which a conflict of interest exists. The committee shall review each formal complaint and, if evidence supports an alleged violation of this chapter or any administrative regulation promulgated thereunder, the committee shall:
 - (a) Authorize an investigative report;
 - (b) Participate in informal procedures to resolve complaints;
 - (c) Ensure timely correspondence to parties involved in complaints; and
 - (d) After review of all evidence and investigative reports, make recommendations for the disposition of complaints to the full commission.
 - (13) No later than November 30, 2013, and annually thereafter, the commission shall provide a status report on the requirements of this section to the Interim Joint Committee on Licensing and Occupations and the Interim Joint Committee on Education. The report shall include a summary of the data, including school performance information, relating to the requirements of subsection (6)(a) of this section.

➔Section 4. KRS 165A.350 is amended to read as follows:

- (1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless the school shall have been issued by the commission a **license**~~certificate of approval or a certificate of registration~~ pursuant to KRS 165A.310 to 165A.410 and the person shall have been issued an agent's permit for said proprietary school.
- (2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the commission.
- (3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the commission, and unless the application shall be accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral as required by the commission but not less than five thousand dollars (\$5,000).

- (4) (a) The surety bond or other collateral shall be conditioned by the commission to recover all necessary administrative costs, including but not limited to costs for the acquisition, permanent filing, and maintenance of student records of the proprietary school or to provide indemnification to any student or enrollee or the student's or enrollee's parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment in a course or courses of instruction or study offered or maintained by the proprietary school, or as a result of the student being unable to complete the course or courses because the proprietary school ceased operations. The amount of liability on the surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall not exceed the penal sum of the bond. The surety bond may be continuous.
- (b) Any claimant may file with the commission a duly verified claim against an agent. The commission shall consider complaints in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to the licensee of the complaint giving time and place of hearing thereon and if the claim is found to be correct and due to the claimant, and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on the bond and the surety thereon, and if not paid shall bring an action on the bond in any court of record within the State of Kentucky.
- (5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.
- (6) A surety on the bond may be released therefrom after the surety shall make a written notice thereof directed to the commission at least thirty (30) days prior to release.
- (7) The surety bond shall cover the period of the agent's permit, except when a surety shall be released in the manner provided herein.
- (8) Notwithstanding the provisions of other sections, the commission may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section, if the proprietary school shall have been issued a **license**~~[certificate of approval]~~ pursuant to the provisions of KRS 165A.310 to 165A.410.
- (9) The commission may issue a conditional license on a monthly basis for up to a nine (9) month period of time.
- (10) An agent's permit shall be suspended by operation of law when the agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the commission shall cause the agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that the permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the commission.
- (11) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or canceled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.
- (12) The owner or owners of the proprietary school shall be held responsible for all actions of their agents when performing their duties as agents.

➔Section 5. KRS 165A.360 is amended to read as follows:

- (1) No person shall maintain or operate a proprietary school located and doing business within this state until said school shall have been issued a **license**~~[certificate of approval]~~ by the commission pursuant to the provisions of KRS 165A.310 to 165A.410. No person shall maintain or operate a proprietary school located without this state and do business within this state until said school shall have been issued a **license**~~[certificate of approval or a certificate of registration]~~ by the commission pursuant to the provisions of KRS 165A.310 to 165A.410. No **license**~~[certificate of approval]~~ shall be issued by the commission to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed. The Kentucky Commission on Human Rights shall have power to make investigation as to discriminatory practices of any proprietary school and shall report thereon to the commission, and said commission shall, upon report that any such school is engaging in discriminatory practices, deny or suspend a **license**~~[certificate]~~ of such school in accordance with the provisions of this section and after notice and public hearing as required herein.

- (2) No proprietary school shall be issued a *license*~~{certificate}~~ unless it shall make application, through its officers or an owner, upon forms to be provided by the commission, and unless the application shall be accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral in a penal sum of not less than twenty thousand dollars (\$20,000).
- (3)
 - (a) The surety bond or other collateral shall be conditioned by the commission to recover all necessary administrative costs, including but not limited to costs for the acquisition, permanent filing, and maintenance of student records of the school or to provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the *license*~~{certificate}~~, or as a result of the student being unable to complete the course or courses because the school ceased operations. Such indemnification shall, in no case, exceed the advanced tuition paid or to be paid by said student or students or any such parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.
 - (b) Any claimant may file with the commission a duly verified claim against a proprietary school. The commission shall consider complaints in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to such school of said complaint giving time and place of hearing thereon and, if such claim is found to be correct and due to the claimant and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on such bond and the surety thereon, and if not paid may bring an action on such bond in any court of record within the State of Kentucky.
- (4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the commission at least thirty (30) days prior to said release.
- (5) The surety bond shall cover the period of the *license*~~{certificate}~~ except when said surety shall be released in the manner as provided by this section.
- (6)
 - (a) The *license*~~{certificate}~~ shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond or other collateral as required by this section; but the commission shall cause said proprietary school to receive at least ten (10) days' written notice prior to the release of said surety to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.
 - (b) The *license*~~{certificate}~~ shall be suspended by operation of law at any time any certified proprietary school shall deny enrollment in said school to any pupil, on account of race, color, or creed.
- (7) The application for a *license*~~{certificate}~~ shall be accompanied by such supporting documents as the commission may require. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.
- (8) A *license*~~{certificate}~~ shall be valid for a period of one (1) school year. A *license*~~{certificate}~~ may be renewed in the same manner and under the conditions prescribed by the commission.
- (9) ~~*Licenses*{Certificates}~~ are transferable to another owner. If a change of ownership occurs, the new owner shall within ten (10) days, reexecute and affirm the application for *license*~~{certificate of approval or certificate of registration}~~ and the information therein, governing said *license*~~{certificate}~~ in effect at the time of sale. The commission may establish a reasonable fee for the recording and processing of such changes.
- (10) The bonding or other collateral requirements herein set forth may be reduced at the sole discretion of the commission upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.
- (11)
 - (a) Contracts by and between a proprietary school operating or doing business within this state and a student are voidable at the option of the student unless said school has been previously issued a *license*~~{certificate}~~ by the commission.
 - (b) No proprietary school operating or doing business within this state shall be entitled to any money collected from students, in whatever manner collected, unless said school has been previously issued a *license*~~{certificate}~~ by the commission.
 - (c) Contracts by and between a proprietary school operating or doing business within this state which are entered into prior to the issuance of a *license*~~{certificate}~~ by the commission, shall be voidable at the

option of the student notwithstanding any subsequent issuance of a *license*~~[certificate]~~ to the school by the commission.

- (d) Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either District Court or Circuit Court in the county of the student's residence or other appropriate court, at the option of the student.

➔Section 6. KRS 165A.370 is amended to read as follows:

- (1) No proprietary school located or doing business in this state shall be issued a *license*~~[certificate]~~ under these provisions until the commission has determined that the proprietary school is maintained, operated, or, in the event of a new proprietary school, that the school, after a physical inspection of the premises, can be reasonably maintained and operated, in substantial compliance with the following minimum standards:
- (a) That the instructional quality and content of each course or program of instruction or study shall be adequate to provide reasonable education and training to each enrolled student, and that the quality and content shall be consistent with the public interest;
 - (b) That the proprietary school has adequate space, equipment, instructional materials, and instructor personnel to provide *the authorized* training and preparation of the quality specified in paragraph (a) of this subsection;
 - (c) That the educational and experience qualifications of directors, administrators, supervisors, and instructors are satisfactory in terms of the quality of instruction specified in paragraph (a) of this subsection;
 - (d) That the administrators shall hold a baccalaureate degree from an accredited college or university, or demonstrate the appropriate training or experience related to the responsibilities of the position as determined by the commission;
 - (e) That the instructors shall hold a baccalaureate degree from an accredited college or university in the area of teaching responsibility, or demonstrate appropriate training or experience related to the responsibilities of the position as determined by the commission;
 - (f) That a copy of the course outline and a schedule of all tuition,~~and~~ fees, *tuition refund schedules*, program completion rates, and program placement rates of the school's graduates for the preceding twelve (12) months be furnished each student applicant prior to enrollment;
 - (g) That, as defined by commission regulation, a diploma, associate degree, certificate, or other appellation shall be awarded to the student upon satisfactory completion of training by the proprietary school which indicates that the course or courses of instruction or study had been satisfactorily completed;
 - (h) That adequate records shall be maintained *on all personnel* and available for inspection and shall include the following materials:
 1. Current personnel forms;
 2. Teacher evaluations;
 3. Inventory of equipment and instructional material; and
 4. Faculty transcripts;
 - (i) That separate files shall be maintained on each student and be available for inspection, and shall include copies of the following materials:
 1. Student's application for admission;
 2. Enrollment agreement;
 3. Academic record;
 4. Attendance record;
 5. Financial payment record; and
 6. Placement record;

- (j) That the proprietary school shall be maintained and operated in compliance with all local, city, and county ordinances and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises;
 - (k) That the proprietary school is financially sound and reasonably capable of fulfilling commitments to students for training and preparation;
 - (l) That the school shall have available, if requested by the commission, a financial statement certified by an independent accountant, and a profit-loss statement certified by the owner as being true and current. The commission may call for any or all of the above information at any time;
 - (m) That the proprietary school does not utilize advertising of any type which is untrue, deceptive, or misleading and shall be able to document all advertised claims;
 - (n) That the chief executive officer, directors, owners, administrators, supervisors, and instructors are of good moral character as determined by the commission;
 - (o) That the proprietary school adheres to a tuition refund schedule as presented in published form prior to enrollment~~[if the student shall discontinue the training or be excluded therefrom];~~
 - (p) That the school shall prominently display its current license and the address and telephone number of the commission office; and
 - (q) That the proprietary school adheres to the other requirements consistent with the public interest as the commission shall determine are necessary to improve the courses or programs of instruction or study offered by the school, and to prevent misrepresentation, fraud, and collusion in the offering thereof.
- (2) ***In determining compliance with the minimum standards described in subsection (1) of this section, the commission shall require at a minimum:***
- (a) ***For a degree-granting institution, appropriate accreditation; and***
 - (b) ***For a non-degree granting institution, a statement of quality assurance.***
- (3) The commission shall investigate, appraise, and evaluate from time to time, or upon receipt of a formal complaint, any proprietary school now located, or which may be hereafter located, in this state. The investigation, appraisal, and evaluation shall be for the purpose of determining whether the proprietary school or its programs are maintained and operated or, in the event of a new proprietary school, whether the new proprietary school can be reasonably maintained and operated, in compliance with the provisions of this section and all other applicable Kentucky statutes and administrative regulations. The investigation, appraisal, and evaluation shall include but are not limited to inspection of all records, books, and facilities at reasonable times and places without prior notice.
- ~~(4)(3)~~ If the commission determines upon investigation, appraisal, and evaluation that a proprietary school located within this state is maintained and operated, or, in the event of a new proprietary school, that the school can be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section, the commission shall issue a ***license***~~[certificate]~~ to the proprietary school.
- ~~(5)(4)~~ If the commission determines that any school is not maintained and operated, or cannot be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section and the minimum requirements determined by the commission, or is in violation of Kentucky statutes or administrative regulations, the commission, after notice and an opportunity for a hearing to be conducted in accordance with KRS Chapter 13B, may deny the issuance of a ***license***~~[certificate]~~ or may establish conditions in conformity with these provisions which shall be met by the school prior to issuance of a ***license***~~[certificate]~~. The commission may issue a conditional license for up to a nine (9) month period of time.
- ➔Section 7. KRS 165A.390 is amended to read as follows:
- (1) An agent's permit may be revoked by the commission for fraud or misrepresentation in procuring or soliciting a student or prospective student for enrollment in a course or courses of instruction or study offered or maintained by a proprietary school located within or without this state. An agent's permit may be revoked by the commission for a false or misleading written or oral statement in the application therefor submitted by the applicant with the intent to mislead or conceal the truth.
 - (2) In the event that the ***license***~~[certificate of approval]~~ of the proprietary school designated upon an agent's permit shall be suspended or revoked, or in the event said agent shall leave the employ of said approved proprietary school, the agent's permit shall be suspended by operation of law; provided, that the agent shall be given at

least ten (10) days' written notice of said suspension, and of the suspension or revocation of the ~~license~~~~[certificate of approval]~~ of said proprietary school; and provided further, that said agent shall be entitled to obtain a reissue of his agent's permit for the remaining unexpired period of time, without an additional fee, with another approved proprietary school designated thereon.

- (3) A ~~license~~~~[certificate of approval]~~ issued to a proprietary school may be suspended or revoked for the failure to maintain and operate a course or courses of instruction or study in compliance with the standards prescribed herein, or for violation of a Kentucky statute or an administrative regulation. A ~~license~~~~[certificate of approval]~~ may be suspended or revoked by the commission for a false or misleading written or oral statement submitted by the applicant proprietary school with the intent to mislead or conceal the truth.
- (4) An agent's permit or the ~~license~~~~[certificate of approval]~~ of a proprietary school may be suspended or revoked by the commission for other valid reasons.
- (5) A licensed proprietary school, prior to discontinuance of operation, shall convey all student records as required by the commission to a location designated by the commission. Said records may be retained in such a manner and for such a time as the commission may designate.

➔Section 8. KRS 165A.460 is amended to read as follows:

All proprietary schools located or doing business in this state that offer CDL driver training shall be governed by the provisions of this chapter, except for matters governing:

- (1) The curriculum which shall be established by the ~~commission~~~~[board]~~ in consultation with the Department of Kentucky State Police and the Kentucky Community and Technical College System; and
- (2) The inspection of CDL driver training school facilities which shall be under the authority of the Department of Kentucky State Police pursuant to KRS 165A.475 and 332.095.

➔Section 9. KRS 165A.475 is amended to read as follows:

- (1) Any person seeking a license to operate, conduct, maintain, or establish a CDL driver training school shall apply to the commission on forms prepared and furnished by the commission. The application shall include the following information:
 - (a) The title or name of the school, the names of the owners of the school, and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;
 - (b) Except for corporations, a statement that the owners of the CDL driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the CDL driver training school license;
 - (c) A description of the established place of business together with the hours during which the CDL driver training school is conducted and a description of the equipment and facilities used in CDL driver training;
 - (d) Evidence of liability insurance coverage of the CDL driver training school, the instructor, and students of the CDL driver training school while operating driver training school equipment. The insurance shall have minimum limits of not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident and subject to the limit for any one (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000) for damage to the property of others in any one (1) accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the commission. Upon request by an applicant, the commission shall review an application and provide a letter to the applicant that a proposed CDL driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform CDL driver's training or to operate a school.
- (2) Each original application for a license to operate a CDL driver training school and each application for renewal of a license to operate a CDL driver training school shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the commission and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this

subsection shall not be refundable if, based upon the background check, the commission denies the person the right to be issued a license under this chapter.

- (3) The commission shall pay the Department of Kentucky State Police to inspect and investigate CDL driver training schools under the requirements of subsection (4) of this section. The payment shall be an amount not greater than the actual cost of conducting the inspection and investigation.
- (4) Upon receipt of an application for a license to operate a CDL driver training school, the commission shall request the Department of Kentucky State Police to investigate the person's program and verify the information contained in the application. The Department of Kentucky State Police shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Department of Kentucky State Police shall verify that the school meets the standards promulgated as administrative regulations under KRS Chapter 13A for license as a CDL driver training school. Upon request, the standards shall be furnished to the school by the commission prior to the visit. If the standards are met, the school shall be licensed to offer instruction on how to operate a commercial motor vehicle including classifications, endorsements, and restrictions *as established in KRS 281A.170*.
- (5) Any person seeking a license to act as a CDL driver training instructor shall apply to the commission on forms prepared and furnished by the commission setting forth that the applicant is twenty-one (21) years of age or older; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license.
- (6) Each original application for a license as a CDL driver training instructor and each application for renewal of a license as a CDL driver training instructor shall be accompanied by the payment of a fee of twenty dollars (\$20) to the commission and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the commission denies the person the right to be issued a license under this chapter.
- (7) In making the determination whether to issue a license under this section, the commission shall consider but shall not be limited to the following:
 - (a) If the applicant has been convicted of a crime as defined in KRS 335B.010;
 - (b) The age of the applicant at the time any criminal conviction was entered;
 - (c) The length of time that has elapsed since the applicant's last criminal conviction;
 - (d) The relationship of any crime convicted to the ability of the applicant to operate a CDL driver training school or to act as a CDL driver training instructor; and
 - (e) The provisions of KRS Chapter 335B.

Signed by Governor April 2, 2018.