

1 AN ACT relating to proprietary education.

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

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 KRS 165A.310 IS REPEALED AND REENACTED TO READ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

5 *As used in this chapter:*

- 6 *(1) "Agent" means any person employed by a proprietary school to act as agent,*
7 *solicitor, broker, or independent contractor to procure students for the school by*
8 *solicitation of enrollment in any form made at any place other than the main*
9 *office or principal place of business of the school;*
- 10 *(2) "CDL" means a commercial driver's license as defined in KRS 281A.010;*
- 11 *(3) "CDL driver training" means a course of study that complies with the provisions*
12 *of KRS 332.095 governing the instruction of persons in the operation of*
13 *commercial motor vehicles;*
- 14 *(4) "CDL driver training school" means any person, firm, partnership, association,*
15 *educational institution, establishment, agency, organization, or corporation that*
16 *offers CDL driver training to persons desiring to obtain a Kentucky CDL in order*
17 *to operate a commercial motor vehicle and for which a fee or tuition is charged;*
- 18 *(5) "Commercial motor vehicle" has the same meaning as in KRS 281A.010;*
- 19 *(6) "Commission" means the Kentucky Commission on Proprietary Education;*
- 20 *(7) "Formal complaint" means a written statement filed on a form specified by the*
21 *commission in which the complainant alleges that a school has violated a*
22 *Kentucky statute or administrative regulation and has negatively impacted the*
23 *complainant, and resolution is requested by the commission;*
- 24 *(8) "License" means authorization issued by the commission to operate or to*
25 *contract to operate a proprietary school in Kentucky as described in this chapter*
26 *and does not reflect accreditation, supervision, endorsement, or recommendation*
27 *by the commission;*

- 1 (9) "Person" means an individual, corporation, business trust, estate, partnership,
2 unincorporated association, two (2) or more of any of the foregoing having a
3 joint or common interest, or any other legal or commercial entity;
- 4 (10) "Proprietary school" or "school" means a privately owned for-profit educational
5 institution, establishment, agency, organization, or person offering or
6 administering a plan, course, or program of instruction in business, trade,
7 technical, industrial, or related areas for which a fee or tuition is charged
8 whether conducted in person, by mail, or by any other method, and does not
9 include:
- 10 (a) A school or educational institution supported entirely or partly by taxation
11 from either a local or state source;
- 12 (b) A parochial, denominational, or eleemosynary school or institution;
- 13 (c) A training program which offers instruction for payment by participants
14 primarily in pursuit of a hobby, recreation, or entertainment, and does not
15 result in the granting of postsecondary credits nor lead to an industry-
16 recognized credential, academic certificate, or degree;
- 17 (d) A course or courses of instruction or study sponsored by an employer for
18 the training and preparation of its own employees for the benefit of the
19 employer and without charge to the employee; or
- 20 (e) A school or educational institution licensed or approved by or a course or
21 courses of study or instruction sponsored by the Kentucky Board of
22 Barbering established by KRS 317.430, the Kentucky Board of Hairdressers
23 and Cosmetologists established by KRS 317A.030, the Kentucky Board of
24 Nursing established by KRS 314.121, the Kentucky Board of Embalmers
25 and Funeral Directors established by KRS 316.170, or the Kentucky
26 Council on Postsecondary Education established by KRS 164.011;
- 27 (11) "Resident" means any person who has established Kentucky as his or her state of

1 domicile. Proof of residency shall include but not be limited to a deed or property
 2 tax bill, utility agreement or utility bill, or rental housing agreement; and
 3 (12) "School year" is beginning the first day of July and ending the thirtieth day of
 4 June next following, except when approval shall be suspended or canceled
 5 pursuant to the provisions herein.

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

7 (1) No person shall conduct, operate, maintain, or establish a proprietary school as
 8 herein defined or use any words which designate or tend to designate to the public
 9 that the operator of the school is qualified to conduct, operate, and maintain the
 10 school, unless he holds a valid current license from the commission.

11 (2) Completed applications for a license shall be filed with the commission thirty (30)
 12 working days prior to being considered by the commission.

13 (3) Renewal applications shall be filed annually with the commission forty-five (45)
 14 days prior to the~~[by May 15, prior to the June 30]~~ expiration date.

15 (4) The school owner shall notify the commission if any personnel involved in the
 16 applicant school has ever been associated as owner, partner, director, or other
 17 administrator with a school that has had its license revoked or that has closed and
 18 caused students a loss of money. The commission may consider this information in
 19 granting, renewing, or revoking a license.

20 (5) No person shall in any way solicit any person or group of persons in this state to
 21 enroll at or attend any such school unless the person holds a valid license as agent
 22 of the school for which he or she is soliciting.

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

24 (1) The Kentucky Commission on Proprietary Education is hereby created as an
 25 independent agency of the Commonwealth and shall be attached to the Education
 26 and Workforce Development Cabinet for administrative purposes. The commission
 27 shall be composed of the following members:

- 1 (a) Two (2) members who are representative of privately owned for-profit
2 postsecondary educational institutions licensed by the commission and
3 appointed by the Governor from a list of seven (7) names submitted by the
4 Kentucky Association of Career Colleges and Schools;
- 5 (b) Two (2) members who are representative of privately owned for-profit
6 postsecondary technical schools licensed by the commission and appointed by
7 the Governor from a list of seven (7) names submitted by the Kentucky
8 Association of Career Colleges and Schools;
- 9 (c) Four (4) members who are representative of the public at large with a
10 background in education, business, or industry in Kentucky and appointed by
11 the Governor;
- 12 (d) The secretary of the Education and Workforce Development Cabinet, or the
13 secretary's designee;
- 14 (e) The president of the Council on Postsecondary Education, or the president's
15 designee; and
- 16 (f) The commissioner of education, or the commissioner's designee.
- 17 (2) Initial terms of appointed members shall be staggered by the Governor. Thereafter,
18 terms shall be four (4) years or until successors are duly appointed and qualified. A
19 vacancy on the commission shall be filled for the remainder of the unexpired term
20 in the same manner as the original appointment. An appointed member shall not
21 serve more than two (2) consecutive full terms, except that a member may be
22 reappointed after a break in service of one (1) full term.
- 23 (3) The commission shall employ and fix the compensation of an executive director,
24 who shall be its secretary and principal executive officer. The executive director
25 shall have a background in the regulation of commerce, business, or education, and
26 shall be responsible for:
- 27 (a) Organizing and staffing meetings of the commission;

- 1 (b) Establishing policies to ensure retention of original licensing documentation;
- 2 (c) Ensuring that minutes and other financial, procedural, complaint, and
- 3 operational records are securely maintained and archived;
- 4 (d) Internal and external correspondence and communication;
- 5 (e) Submitting reports and strategic agenda items for review and approval;
- 6 (f) Assisting the commission in the promulgation of administrative regulations;
- 7 (g) Carrying out policy and program directives of the commission;
- 8 (h) Preparing budget submissions;
- 9 (i) Ensuring that formal complaints are provided to the complaint committee and
- 10 arranging for independent investigations as needed;
- 11 (j) Ensuring that an independent audit of the commission's finances is conducted
- 12 biennially~~annually~~;
- 13 (k) Ensuring that formal written agreements are executed for the procurement of
- 14 administrative and legal services;
- 15 (l) Formalizing office policies and procedures relating to licensing and financial
- 16 operations;
- 17 (m) Developing and implementing a process for monitoring expenditures and
- 18 reconciling on a monthly basis commission and student protection fund
- 19 receipts reported in the Enhanced Management Administrative Reporting
- 20 System (EMARS); and
- 21 (n) Other activities necessary to ensure that the commission meets its designated
- 22 duties and responsibilities.
- 23 (4) The commission shall have full authority to employ and fix the compensation for
- 24 any personnel, including counsel, as it may deem necessary to effectively administer
- 25 and enforce the provisions of this chapter. The commission shall obtain office
- 26 space, furniture, stationery, and any other proper supplies and conveniences
- 27 reasonably necessary to carry out the provisions of this chapter.

- 1 (5) The commission shall annually elect a chairperson. The chairperson shall not be a
2 school representative appointed pursuant to subsection (1)(a) or (b) of this section.
- 3 (6) (a) The commission shall promulgate administrative regulations in accordance
4 with KRS Chapter 13A to establish:
- 5 1. Commission operating and accountability procedures;
 - 6 2. Requirements for each licensed institution to publicly disclose according
7 to standardized protocols, both in print and Web-based materials,
8 information about:
 - 9 a. Any information that the schools are required to report by the
10 federal Higher Education Opportunity Act, Pub. L. No. 110-315,
11 using the Integrated Postsecondary Education Data System
12 (IPEDS) of the National Center for Educational Statistics as a
13 condition of participating in Title IV federal financial aid
14 programs;
 - 15 b. The job placement rate of program graduates in the field of study
16 and the types of jobs for which graduates are eligible;
 - 17 c. Articulation agreements with other postsecondary educational
18 institutions and the rights and responsibilities of students regarding
19 transfer of credits;
 - 20 d. The complaint procedures available to students; and
 - 21 e. The existence of the student protection fund created in KRS
22 165A.450, and procedures for students to file a claim, including
23 but not limited to the documentation required for submission of a
24 claim;
 - 25 3. Advertising requirements for schools issued a license, including no
26 distribution of materials containing untrue, deceptive, or misleading
27 statements and no representation that the commission is an

- 1 accrediting agency for the school or its programs~~[Quality standards~~
2 ~~and compliance monitoring schedules of traditional programs,~~
3 ~~correspondence courses, and Web-based, distance learning courses~~
4 ~~offered over the Internet;~~
- 5 4. ~~A schedule for reviewing advertisements and recruitment materials and~~
6 ~~practices of member institutions to ensure compliance with this chapter];~~
- 7 4.15.~~]~~ An equitable structure of licensure and renewal fees, to be paid by
8 licensed schools, necessary to carry out the provisions and purposes of
9 this chapter and to support adequate staffing of commission
10 responsibilities. The fee structure shall be based on the gross revenue of
11 licensed schools, number of students enrolled, and whether the school is
12 located within the state or outside the state; and
- 13 5.16.~~]~~ The method for calculating placement rates that are to be disclosed
14 pursuant to this subsection.
- 15 (b) The commission shall have the authority to promulgate other administrative
16 regulations, in cooperation with the Kentucky Department of Education and
17 the Council on Postsecondary Education, as it deems necessary for the proper
18 administration of this chapter.
- 19 (7) The commission shall hold meetings at least four (4) times a year and as frequently
20 as it deems necessary at the times and places within this state as the commission
21 may designate. The majority of the members shall constitute a quorum, and all
22 meetings shall be conducted in accordance with the Open Meetings Act, KRS
23 61.805 to 61.850.
- 24 (8) The commission may sue and be sued in its own name.
- 25 (9) Commission members shall receive a per diem of one hundred dollars (\$100) for
26 attendance at each commission meeting and may be reimbursed for ordinary travel
27 and other expenses while engaged in the business of the commission.

- 1 (10) The commission shall administer and enforce the provisions of this chapter
2 pertaining to the conduct, operation, maintenance, and establishment of proprietary
3 education institutions, and the activities of agents thereof when acting as such.
- 4 (11) The commission shall have the power to subpoena witnesses and school records as
5 it deems necessary.
- 6 (12) The commission chairperson shall appoint a complaint committee and designate its
7 chairperson. The chairperson of the complaint committee shall not be employed by,
8 have ownership interest in, or be otherwise affiliated with a licensed institution.
9 School representatives appointed pursuant to subsection (1)(a) or (b) of this section
10 shall not constitute a majority of the committee's membership. A committee
11 member shall not vote on a matter in which a conflict of interest exists. The
12 committee shall review each formal complaint and, if evidence supports an alleged
13 violation of this chapter or any administrative regulation promulgated thereunder,
14 the committee shall:
- 15 (a) Authorize an investigative report;
 - 16 (b) Participate in informal procedures to resolve complaints;
 - 17 (c) Ensure timely correspondence to parties involved in complaints; and
 - 18 (d) After review of all evidence and investigative reports, make recommendations
19 for the disposition of complaints to the full commission.
- 20 (13) No later than November 30, 2013, and annually thereafter, the commission shall
21 provide a status report on the requirements of this section to the Interim Joint
22 Committee on Licensing and Occupations and the Interim Joint Committee on
23 Education. The report shall include a summary of the data, including school
24 performance information, relating to the requirements of subsection (6)(a) of this
25 section.
- 26 ➔Section 4. KRS 165A.350 is amended to read as follows:
- 27 (1) No person shall solicit or perform the services of an agent in this state for a

1 proprietary school, located either within or without this state, unless the school shall
2 have been issued by the commission a license~~certificate of approval or a certificate~~
3 ~~of registration~~ pursuant to KRS 165A.310 to 165A.410 and the person shall have
4 been issued an agent's permit for said proprietary school.

5 (2) No person shall be issued an agent's permit unless he is an individual of good moral
6 character as determined by the commission.

7 (3) Except as otherwise provided, no person shall be issued an agent's permit unless he
8 shall make application upon forms to be provided by the commission, and unless
9 the application shall be accompanied by a fee as established by the commission and
10 a good and sufficient surety bond or other collateral as required by the commission
11 but not less than five thousand dollars (\$5,000).

12 (4) (a) The surety bond or other collateral shall be conditioned by the commission to
13 recover all necessary administrative costs, including but not limited to costs
14 for the acquisition, permanent filing, and maintenance of student records of
15 the proprietary school or to provide indemnification to any student or enrollee
16 or the student's or enrollee's parent or guardian suffering loss or damage as a
17 result of any fraud or misrepresentation used in procuring his enrollment in a
18 course or courses of instruction or study offered or maintained by the
19 proprietary school, or as a result of the student being unable to complete the
20 course or courses because the proprietary school ceased operations. The
21 amount of liability on the surety bond or other collateral shall cover each
22 agent each school year, as the term "school year" is defined in KRS 165A.310.
23 Regardless of the number of years that an agent's bond is in force, the
24 aggregate liability of the surety bond shall not exceed the penal sum of the
25 bond. The surety bond may be continuous.

26 (b) Any claimant may file with the commission a duly verified claim against an
27 agent. The commission shall consider complaints in a timely manner after ten

- 1 (10) days' written notice by certified mail, return receipt requested, to the
2 licensee of the complaint giving time and place of hearing thereon and if the
3 claim is found to be correct and due to the claimant, and if the commission
4 cannot effect a settlement by persuasion and conciliation, the commission
5 shall make a demand upon the principal on the bond and the surety thereon,
6 and if not paid shall bring an action on the bond in any court of record within
7 the State of Kentucky.
- 8 (5) The surety bond may be of blanket form to cover more than one (1) agent for a
9 proprietary school, but it shall provide the required minimum coverage for each
10 agent.
- 11 (6) A surety on the bond may be released therefrom after the surety shall make a written
12 notice thereof directed to the commission at least thirty (30) days prior to release.
- 13 (7) The surety bond shall cover the period of the agent's permit, except when a surety
14 shall be released in the manner provided herein.
- 15 (8) Notwithstanding the provisions of other sections, the commission may issue an
16 agent's permit to each person who is an owner of more than ten percent (10%) legal
17 interest in a proprietary school located in this state and who is a resident of this
18 state, and no owner shall be required to pay the agent's permit fee or execute an
19 agent's surety bond as otherwise required by this section, if the proprietary school
20 shall have been issued a license~~[certificate of approval]~~ pursuant to the provisions
21 of KRS 165A.310 to 165A.410.
- 22 (9) The commission may issue a conditional license on a monthly basis for up to a nine
23 (9) month period of time.
- 24 (10) An agent's permit shall be suspended by operation of law when the agent is no
25 longer covered by a surety bond or other collateral is withdrawn as required by KRS
26 165A.310 to 165A.410; but the commission shall cause the agent to receive at least
27 ten (10) days' written notice prior to the release of his surety to the effect that the

1 permit shall be suspended by operation of law until another surety bond or other
2 collateral shall be filed in the same manner and like amount as required by the
3 commission.

4 (11) An agent's permit shall be valid for a period of one (1) school year as herein
5 defined, except when suspended or canceled pursuant to these provisions. An
6 agent's permit may be renewed in the same manner and under the same conditions
7 prescribed for the issuance of an initial agent's permit.

8 (12) The owner or owners of the proprietary school shall be held responsible for all
9 actions of their agents when performing their duties as agents.

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

11 (1) No person shall maintain or operate a proprietary school located and doing business
12 within this state until said school shall have been issued a license~~certificate of~~
13 ~~approval~~ by the commission pursuant to the provisions of KRS 165A.310 to
14 165A.410. No person shall maintain or operate a proprietary school located without
15 this state and do business within this state until said school shall have been issued a
16 license~~certificate of approval or a certificate of registration~~ by the commission
17 pursuant to the provisions of KRS 165A.310 to 165A.410. No license~~certificate of~~
18 ~~approval~~ shall be issued by the commission to any proprietary school which denies
19 enrollment in said school to any pupil, on account of race, color, or creed. The
20 Kentucky Commission on Human Rights shall have power to make investigation as
21 to discriminatory practices of any proprietary school and shall report thereon to the
22 commission, and said commission shall, upon report that any such school is
23 engaging in discriminatory practices, deny or suspend a license~~certificate~~ of such
24 school in accordance with the provisions of this section and after notice and public
25 hearing as required herein.

26 (2) No proprietary school shall be issued a license~~certificate~~ unless it shall make
27 application, through its officers or an owner, upon forms to be provided by the

1 commission, and unless the application shall be accompanied by a fee as established
2 by the commission and a good and sufficient surety bond or other collateral in a
3 penal sum of not less than twenty thousand dollars (\$20,000).

4 (3) (a) The surety bond or other collateral shall be conditioned by the commission to
5 recover all necessary administrative costs, including but not limited to costs
6 for the acquisition, permanent filing, and maintenance of student records of
7 the school or to provide indemnification to any student or enrollee or his
8 parent or guardian suffering loss or damage as a result of any fraud or
9 misrepresentation used in procuring his enrollment or as a result of any fraud
10 or misrepresentation as represented by the application for the
11 license~~[certificate]~~, or as a result of the student being unable to complete the
12 course or courses because the school ceased operations. Such indemnification
13 shall, in no case, exceed the advanced tuition paid or to be paid by said
14 student or students or any such parent or guardian and regardless of the
15 number of years that a school's bond is in force, the aggregate liability of the
16 surety bond shall, in no event, exceed the penal sum of the bond. The surety
17 bond may be continuous.

18 (b) Any claimant may file with the commission a duly verified claim against a
19 proprietary school. The commission shall consider complaints in a timely
20 manner after ten (10) days' written notice by certified mail, return receipt
21 requested, to such school of said complaint giving time and place of hearing
22 thereon and, if such claim is found to be correct and due to the claimant and if
23 the commission cannot effect a settlement by persuasion and conciliation, the
24 commission shall make a demand upon the principal on such bond and the
25 surety thereon, and if not paid may bring an action on such bond in any court
26 of record within the State of Kentucky.

27 (4) A surety on said bond may be released therefrom after said surety shall have made a

1 written notice thereof directed to the commission at least thirty (30) days prior to
2 said release.

3 (5) The surety bond shall cover the period of the license~~[certificate]~~ except when said
4 surety shall be released in the manner as provided by this section.

5 (6) (a) The license~~[certificate]~~ shall be suspended by operation of law when said
6 proprietary school is no longer covered by a surety bond or other collateral as
7 required by this section; but the commission shall cause said proprietary
8 school to receive at least ten (10) days' written notice prior to the release of
9 said surety to the effect that said approval shall be suspended by operation of
10 law until another surety bond shall be filed in the same manner and like
11 amount as required for the initial surety bond.

12 (b) The license~~[certificate]~~ shall be suspended by operation of law at any time any
13 certified proprietary school shall deny enrollment in said school to any pupil,
14 on account of race, color, or creed.

15 (7) The application for a license~~[certificate]~~ shall be accompanied by such supporting
16 documents as the commission may require. The application and accompanying data
17 shall be certified as true and correct in content and policy by the chief executive
18 officer of said proprietary school.

19 (8) A license~~[certificate]~~ shall be valid for a period of one (1) school year. A
20 license~~[certificate]~~ may be renewed in the same manner and under the conditions
21 prescribed by the commission.

22 (9) Licenses~~[Certificates]~~ are transferable to another owner. If a change of ownership
23 occurs, the new owner shall within ten (10) days, reexecute and affirm the
24 application for license~~[certificate of approval or certificate of registration]~~ and the
25 information therein, governing said license~~[certificate]~~ in effect at the time of sale.
26 The commission may establish a reasonable fee for the recording and processing of
27 such changes.

- 1 (10) The bonding or other collateral requirements herein set forth may be reduced at the
2 sole discretion of the commission upon a showing by the proprietary school that
3 they are excessive in the case of any particular proprietary school.
- 4 (11) (a) Contracts by and between a proprietary school operating or doing business
5 within this state and a student are voidable at the option of the student unless
6 said school has been previously issued a license~~[certificate]~~ by the
7 commission.
- 8 (b) No proprietary school operating or doing business within this state shall be
9 entitled to any money collected from students, in whatever manner collected,
10 unless said school has been previously issued a license~~[certificate]~~ by the
11 commission.
- 12 (c) Contracts by and between a proprietary school operating or doing business
13 within this state which are entered into prior to the issuance of a
14 license~~[certificate]~~ by the commission, shall be voidable at the option of the
15 student notwithstanding any subsequent issuance of a license~~[certificate]~~ to
16 the school by the commission.
- 17 (d) Restitution of any money paid by a student under a contract voided pursuant
18 to this section, may be obtained through action brought by the student in either
19 District Court or Circuit Court in the county of the student's residence or other
20 appropriate court, at the option of the student.
- 21 ➔Section 6. KRS 165A.370 is amended to read as follows:
- 22 (1) No proprietary school located or doing business in this state shall be issued a
23 license~~[certificate]~~ under these provisions until the commission has determined that
24 the proprietary school is maintained, operated, or, in the event of a new proprietary
25 school, that the school, after a physical inspection of the premises, can be
26 reasonably maintained and operated, in substantial compliance with the following
27 minimum standards:

- 1 (a) ~~[That the instructional quality and content of each course or program of~~
2 ~~instruction or study shall be adequate to provide reasonable education and~~
3 ~~training to each enrolled student, and that the quality and content shall be~~
4 ~~consistent with the public interest;~~
- 5 (b) ~~]~~ That the proprietary school has adequate space, equipment, instructional
6 materials, and instructor personnel to provide ***the authorized*** training ~~[and~~
7 ~~preparation of the quality specified in paragraph (a) of this subsection;~~
- 8 (c) ~~That the educational and experience qualifications of directors, administrators,~~
9 ~~supervisors, and instructors are satisfactory in terms of the quality of~~
10 ~~instruction specified in paragraph (a) of this subsection;~~
- 11 (d) ~~That the administrators shall hold a baccalaureate degree from an accredited~~
12 ~~college or university, or demonstrate the appropriate training or experience~~
13 ~~related to the responsibilities of the position as determined by the commission;~~
- 14 (e) ~~That the instructors shall hold a baccalaureate degree from an accredited~~
15 ~~college or university in the area of teaching responsibility, or demonstrate~~
16 ~~appropriate training or experience related to the responsibilities of the position~~
17 ~~as determined by the commission];~~
- 18 ***(b)(f)*** That a copy of the course outline and a schedule of all tuition, ~~[and]~~ fees,
19 ***tuition refund schedules***, program completion rates, and program placement
20 rates of the school's graduates for the preceding twelve (12) months be
21 furnished each student applicant prior to enrollment;
- 22 ***(c)(g)*** That, as defined by commission regulation, a diploma, associate degree,
23 certificate, or other appellation shall be awarded to the student upon
24 satisfactory completion of training by the proprietary school which indicates
25 that the course or courses of instruction or study had been satisfactorily
26 completed;
- 27 ***(d)(h)*** That adequate records shall be maintained ***on all personnel, including***

1 faculty transcripts, and be available for inspection~~— and shall include the~~
2 following materials:

- 3 1. ~~Current personnel forms;~~
- 4 2. ~~Teacher evaluations;~~
- 5 3. ~~Inventory of equipment and instructional material; and~~
- 6 4. ~~Faculty transcripts];~~

7 ~~(e)(i)~~ That separate files shall be maintained on each student and be available
8 for inspection, and shall include copies of the following materials:

- 9 1. Student's application for admission;
- 10 2. Enrollment agreement;
- 11 3. Academic record;
- 12 4. Attendance record;
- 13 5. Financial payment record; and
- 14 6. Placement record;

15 ~~(f)(i)~~ That the proprietary school shall be maintained and operated in
16 compliance with all local, city, and county ordinances and state law, including
17 rules and regulations adopted pursuant thereto, relative to the safety and health
18 of all persons upon the premises;

19 ~~(g)(k)~~ That the proprietary school is financially sound and reasonably capable
20 of fulfilling commitments to students for training and preparation;

21 ~~(h)(l)~~ That the school shall have available, if requested by the commission, a
22 financial statement certified by an independent accountant, and a profit-loss
23 statement certified by the owner as being true and current. The commission
24 may call for any or all of the above information at any time;

25 ~~(i)(m)~~ That the proprietary school does not utilize advertising of any type
26 which is untrue, deceptive, or misleading and shall be able to document all
27 advertised claims;

1 ~~{(n) That the chief executive officer, directors, owners, administrators, supervisors,~~
2 ~~and instructors are of good moral character as determined by the commission;}~~

3 ~~{(j){(o)}~~ That the proprietary school adheres to a tuition refund schedule as
4 presented in published form prior to enrollment~~{ if the student shall~~
5 ~~discontinue the training or be excluded therefrom};~~

6 ~~{(k){(p)}~~ That the school shall prominently display its current license and the
7 address and telephone number of the commission office; and

8 ~~{(l){(q)}~~ That the proprietary school adheres to the other requirements consistent
9 with the public interest as the commission shall determine are necessary to
10 improve the courses or programs of instruction or study offered by the school,
11 and to prevent misrepresentation, fraud, and collusion in the offering thereof.

12 (2) The commission shall investigate, appraise, and evaluate from time to time, or upon
13 receipt of a formal complaint, any proprietary school now located, or which may be
14 hereafter located, in this state. The investigation, appraisal, and evaluation shall be
15 for the purpose of determining whether the proprietary school or its programs are
16 maintained and operated or, in the event of a new proprietary school, whether the
17 new proprietary school can be reasonably maintained and operated, in compliance
18 with the provisions of this section and all other applicable Kentucky statutes and
19 administrative regulations. The investigation, appraisal, and evaluation shall include
20 but are not limited to inspection of all records, books, and facilities at reasonable
21 times and places without prior notice.

22 (3) If the commission determines upon investigation, appraisal, and evaluation that a
23 proprietary school located within this state is maintained and operated, or, in the
24 event of a new proprietary school, that the school can be reasonably maintained and
25 operated, in compliance with the minimum standards prescribed by this section, the
26 commission shall issue a license~~{certificate}~~ to the proprietary school.

27 (4) If the commission determines that any school is not maintained and operated, or

1 cannot be reasonably maintained and operated, in compliance with the minimum
2 standards prescribed by this section and the minimum requirements determined by
3 the commission, or is in violation of Kentucky statutes or administrative
4 regulations, the commission, after notice and an opportunity for a hearing to be
5 conducted in accordance with KRS Chapter 13B, may deny the issuance of a
6 license~~[certificate]~~ or may establish conditions in conformity with these provisions
7 which shall be met by the school prior to issuance of a license~~[certificate]~~. The
8 commission may issue a conditional license for up to a nine (9) month period of
9 time.

10 ➔Section 7. KRS 165A.390 is amended to read as follows:

- 11 (1) An agent's permit may be revoked by the commission for fraud or misrepresentation
12 in procuring or soliciting a student or prospective student for enrollment in a course
13 or courses of instruction or study offered or maintained by a proprietary school
14 located within or without this state. An agent's permit may be revoked by the
15 commission for a false or misleading written or oral statement in the application
16 therefor submitted by the applicant with the intent to mislead or conceal the truth.
- 17 (2) In the event that the license~~[certificate of approval]~~ of the proprietary school
18 designated upon an agent's permit shall be suspended or revoked, or in the event
19 said agent shall leave the employ of said approved proprietary school, the agent's
20 permit shall be suspended by operation of law; provided, that the agent shall be
21 given at least ten (10) days' written notice of said suspension, and of the suspension
22 or revocation of the license~~[certificate of approval]~~ of said proprietary school; and
23 provided further, that said agent shall be entitled to obtain a reissue of his agent's
24 permit for the remaining unexpired period of time, without an additional fee, with
25 another approved proprietary school designated thereon.
- 26 (3) A license~~[certificate of approval]~~ issued to a proprietary school may be suspended
27 or revoked for the failure to maintain and operate a course or courses of instruction

1 or study in compliance with the standards prescribed herein, or for violation of a
2 Kentucky statute or an administrative regulation. A license~~[certificate of approval]~~
3 may be suspended or revoked by the commission for a false or misleading written or
4 oral statement submitted by the applicant proprietary school with the intent to
5 mislead or conceal the truth.

6 (4) An agent's permit or the license~~[certificate of approval]~~ of a proprietary school may
7 be suspended or revoked by the commission for other valid reasons.

8 (5) A licensed proprietary school, prior to discontinuance of operation, shall convey all
9 student records as required by the commission to a location designated by the
10 commission. Said records may be retained in such a manner and for such a time as
11 the commission may designate.

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

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

15 (1) The curriculum which shall be established by the commission~~[board]~~ in
16 consultation with the Department of Kentucky State Police and the Kentucky
17 Community and Technical College System; and

18 (2) The inspection of CDL driver training school facilities which shall be under the
19 authority of the Department of Kentucky State Police pursuant to KRS 165A.475
20 and 332.095.

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

22 (1) Any person seeking a license to operate, conduct, maintain, or establish a CDL
23 driver training school shall apply to the commission on forms prepared and
24 furnished by the commission. The application shall include the following
25 information:

26 (a) The title or name of the school, the names of the owners of the school, and, if
27 the owner is to be a corporation, the names and addresses of the officers of the

1 corporation;

2 (b) Except for corporations, a statement that the owners of the CDL driver
3 training school are each twenty-one (21) years of age or over, are residents of
4 this state, and have been for at least one (1) year next preceding the
5 application for the CDL driver training school license;

6 (c) A description of the established place of business together with the hours
7 during which the CDL driver training school is conducted and a description of
8 the equipment and facilities used in CDL driver training;

9 (d) Evidence of liability insurance coverage of the CDL driver training school, the
10 instructor, and students of the CDL driver training school while operating
11 driver training school equipment. The insurance shall have minimum limits of
12 not less than twenty-five thousand dollars (\$25,000) for bodily injury or death
13 of one (1) person in any one (1) accident and subject to the limit for any one
14 (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two
15 (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000)
16 for damage to the property of others in any one (1) accident. Evidence of
17 insurance coverage shall also provide that the insurance coverage shall not be
18 canceled except after ten (10) days prior notice in writing by the carrier to the
19 commission. Upon request by an applicant, the commission shall review an
20 application and provide a letter to the applicant that a proposed CDL driver
21 training school has met all preliminary requirements for approval, except the
22 provisions of this paragraph. The letter may be used by the applicant to help
23 secure the liability insurance coverage needed under this paragraph to obtain a
24 license to operate a school. A letter provided under this paragraph shall not be
25 construed as approval to perform CDL driver's training or to operate a school.

26 (2) Each original application for a license to operate a CDL driver training school and
27 each application for renewal of a license to operate a CDL driver training school

- 1 shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the
2 commission and written proof that the applicant has complied with the criminal
3 history background check required by KRS 165A.465. The application fee charged
4 under this subsection shall not be refundable if, based upon the background check,
5 the commission denies the person the right to be issued a license under this chapter.
- 6 (3) The commission shall pay the Department of Kentucky State Police to inspect and
7 investigate CDL driver training schools under the requirements of subsection (4) of
8 this section. The payment shall be an amount not greater than the actual cost of
9 conducting the inspection and investigation.
- 10 (4) Upon receipt of an application for a license to operate a CDL driver training school,
11 the commission shall request the Department of Kentucky State Police to
12 investigate the person's program and verify the information contained in the
13 application. The Department of Kentucky State Police shall contact the applicant
14 and make an appointment to inspect the school's facilities. At the time of inspection,
15 the Department of Kentucky State Police shall verify that the school meets the
16 standards promulgated as administrative regulations under KRS Chapter 13A for
17 license as a CDL driver training school. Upon request, the standards shall be
18 furnished to the school by the commission prior to the visit. If the standards are met,
19 the school shall be licensed to offer instruction on how to operate a commercial
20 motor vehicle including classifications, endorsements, and restrictions as
21 established in KRS 281A.170.
- 22 (5) Any person seeking a license to act as a CDL driver training instructor shall apply to
23 the commission on forms prepared and furnished by the commission setting forth
24 that the applicant is twenty-one (21) years of age or older; is a high school graduate
25 or has the equivalent of a high school education, or has equivalent experience; and
26 holds a current and valid operator's license.
- 27 (6) Each original application for a license as a CDL driver training instructor and each

1 application for renewal of a license as a CDL driver training instructor shall be
2 accompanied by the payment of a fee of twenty dollars (\$20) to the commission and
3 written proof that the applicant has complied with the criminal history background
4 check required by KRS 165A.465. The application fee charged under this
5 subsection shall not be refundable if, based upon the background check, the
6 commission denies the person the right to be issued a license under this chapter.

- 7 (7) In making the determination whether to issue a license under this section, the
8 commission shall consider but shall not be limited to the following:
- 9 (a) If the applicant has been convicted of a crime as defined in KRS 335B.010;
 - 10 (b) The age of the applicant at the time any criminal conviction was entered;
 - 11 (c) The length of time that has elapsed since the applicant's last criminal
12 conviction;
 - 13 (d) The relationship of any crime convicted to the ability of the applicant to
14 operate a CDL driver training school or to act as a CDL driver training
15 instructor; and
 - 16 (e) The provisions of KRS Chapter 335B.