

Chapter 345

1955 REPLACEMENT PART

Private Vocational Schools

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345.010 Definitions. As used in ORS 345.010 to 345.230:

(1) A "vocational school" is any person, partnership, association or corporation which for gain or profit conducts or holds itself out to the world as conducting any private college, school, source, base or means whatsoever for the purpose or purported purpose of training, teaching or preparing persons for vocations or avocations in engineering, finance, commerce, business, industry, trade, mechanics, radio, aeronautics, telegraphy, telephony, television, navigation, government service, civil service, social service or service of the public; or for the purpose of teaching or conducting courses or classes germane, related or pertaining to any such subject.

(2) A "salesman" is any person employed by or for a vocational school to procure students, enrollees or subscribers therefor by solicitation in any form, made at a place or places other than the office or place of business of such school.

(3) "Superintendent" means Superintendent of Public Instruction.

345.015 Application of ORS 345.010 to 345.230. ORS 345.010 to 345.230 do not apply to:

(1) Classes or courses in weaving, knitting, crocheting, fine arts not including commercial arts or ceramics.

(2) Other classes of an avocational nature where the tuition charge does not exceed \$25 for the complete course of instruction.

(3) Any vocational school otherwise regulated and licensed under any other law of this state.

(4) Any parochial, denominational or eleemosynary institution.

(5) Any summer high school conducted under local school district regulations and which offers courses in regular high school work.

345.020 Duty and powers of Superintendent of Public Instruction; interest in vocational schools prohibited. (1) The superintendent shall administer ORS 345.010 to 345.230 and shall enforce all laws, rules and regulations relating to the licensing of vocational schools and salesmen thereunder. Subject to and under the provisions of those statutes, he shall have full power to regulate and control the issuance, denial, suspension and revocation of licenses issuable pursuant thereto and to perform all other acts and duties of

him required by or provided in those statutes and necessary to their enforcement. He may make and enforce reasonable rules and regulations necessary for the proper administration and enforcement of those statutes.

(2) Neither the superintendent, nor any of his assistants, deputies or employes, shall be interested in any vocational school, or act as salesman, agent or employee thereof.

(3) The superintendent shall employ in his office the necessary personnel to carry out the provisions of this chapter. [Amended by 1955 c.527 §1]

345.030 Vocational schools and salesmen to be licensed. No person, partnership, association or corporation shall open, conduct or do business as a vocational school, and no person shall act as a salesman, within this state, without a license in good standing therefor under this chapter.

345.040 To whom license may be granted.

(1) Licenses to conduct vocational schools shall be granted only to such persons, partnerships, associations or corporations as are trustworthy, competent and equipped to transact such business in such manner as to safeguard and protect the interests of the public, and only after satisfactory proof thereof has been presented to the superintendent.

(2) A salesman's license shall be granted only to a person who has attained the age of 18 years, resides in this state, is of good moral character, bears a good reputation for honesty, truthfulness and fair-dealing, and is otherwise competent and qualified to act as such in such manner as to safeguard and protect the interests of the public, and who has not been convicted of any felony or of a misdemeanor involving moral turpitude.

345.050 Acting as salesman for unlicensed school prohibited. No person shall act as salesman for a vocational school unless and until such vocational school has obtained a license under this chapter to do business in this state.

345.060 Foreign or nonresident vocational schools; qualification for license; service of process. (1) In order for a foreign or nonresident vocational school to qualify to do business within this state, it shall maintain a bona fide active place of business in the state of its domicile. Every foreign or nonresident applicant for a license to transact business in this state shall, in writing, appoint

the superintendent such applicant's true and lawful attorney in fact to accept service of all summonses, pleadings, writs and processes in all actions, suits or proceedings brought against such applicant in this state, and shall agree that such service upon the superintendent shall be taken and held in all courts to be as valid and binding as if personal service thereof had been made upon such applicant within this state. Any such application by a corporation shall be accompanied by a duly certified copy of the resolution of the board of directors or other managing board of such applicant authorizing such appointment.

(2) When any such summons, pleading, writ or process is served on the superintendent, such service shall be by duplicate copies. One of such duplicates shall be filed in the office of the superintendent and the other immediately forwarded by registered mail to the applicant thereby affected or therein named, at such applicant's last-known postoffice address; and, if such service is of a summons, the plaintiff therein shall also cause said applicant to be served therewith by publication or in the manner provided by ORS 15.110.

345.070 Annual issuance of license; carrying salesman's license. A license shall be issued annually to each licensee in the form, size and appropriate context as shall be prescribed by the superintendent. Each salesman shall carry with him at all times while engaged as such, the license so issued to him.

345.080 License fees; disposition of fees. (1) Before issuing any licenses under this chapter, the superintendent shall collect the following annual license fees: For a vocational school's license, \$50; and for a salesman's license, \$15.

(2) All fees so collected shall be paid into the General Fund in the State Treasury. [Amended by 1955 c.527 §2]

345.090 Applications for license. Every applicant for a license under this chapter shall apply therefor in writing upon blanks prepared and supplied by the superintendent. The application shall be accompanied by the authenticated written recommendation of at least 10 reputable citizens not related to, or in anywise interested in, the applicant, who are well known within the community where the applicant resides. The recommendation shall certify that such persons are well and personally acquainted with the applicant, that the applicant bears a good reputation for truthfulness, honesty, fair-dealing and com-

petency and that they recommend that a license be granted to the applicant. When an applicant had a license for the previous year which was in good standing at the end of such year, the superintendent may waive such recommendation requirement. The superintendent may require such other proof as he may deem advisable of the honesty, integrity and good reputation of any applicant, or if it be a corporation, of the officers thereof.

345.100 Bonds. (1) Every application for a license to conduct or do business as a vocational school within this state shall be accompanied by a bond in the penal sum of \$2,500 and running to the State of Oregon. It shall be executed by two good and sufficient personal sureties to be approved by the superintendent, or by a surety company authorized to transact business in this state, approved as to form and substance by the superintendent, and conditioned that the applicant shall fulfill and perform all its contracts with its students, enrollees or subscribers and conduct its business in accordance with the requirements of ORS 345.010 to 345.210 and all rules and regulations of the superintendent promulgated thereunder.

(2) Every application for a salesman's license shall be accompanied by a bond in the penal sum of \$1,000 and running to the State of Oregon. It shall be executed by two good and sufficient personal sureties to be approved by the superintendent, or by a surety company authorized to transact business in this state, approved as to form and substance by the superintendent, and conditioned that the applicant shall perform his duties and conduct his business in accordance with the requirements of ORS 345.010 to 345.210 and all rules and regulations of the superintendent promulgated thereunder, and further, that any person, including his employer, may sue and recover on such bond of such salesman for any loss or damage sustained, resulting from any defalcation or fraud of such salesman.

345.110 Filing bond; suing on bond; attorney's fee. Every bond given under ORS 345.100, after approval thereof, shall be filed and held in the office of the superintendent. Any person injured in or by any of the manners, means or respects referred to in ORS 345.100, by any vocational school or salesman, shall have the right in his own name to commence action against said vocational school or salesman, or both, and such sure-

ties, for the recovery of any damages sustained by him by reason of any such injury. In any such action, the court shall, upon entering judgment for the plaintiff, allow such additional sum as it may adjudge reasonable as an attorney's fee therein.

345.120 Investigations; suspension or revocation of licenses. The superintendent may, on his own motion, for cause, and shall, on the verified complaint in writing of any person, which alone, or together with evidence presented in connection therewith, in his judgment makes out a prima facie case, investigate the actions of any vocational school, salesman or any person who assumes to act in either such capacity within this state. The superintendent may suspend or revoke any license issued under this chapter when the licensee has obtained a license by misrepresentation, or when the licensee, in having done, or having attempted or purported to have done, any of the business licensed, was guilty of:

(1) Making any substantial misrepresentation; or

(2) Making any false promise of a character likely to induce; or

(3) Pursuing a continued or flagrant course of misrepresentation, or in any wise making false promises; or

(4) Failing, within a reasonable time, to account for and remit any moneys coming into his possession which belong to another or others; or

(5) Being unworthy of acting, or incompetent to act, as a vocational school or salesman, as the case may be, in such manner as to safeguard and protect the interests of the public; or

(6) Any other conduct constituting improper, fraudulent or dishonest dealing.

345.130 Revocation of license on licensee's motion. If any vocational school or salesman licensed under this chapter ceases to engage in the business authorized under such license, the superintendent may, on motion of the licensee, revoke the license. Whenever any license is revoked on motion of the licensee the hearing authorized by ORS 345.150 is not necessary and the superintendent also may cause the surety bond to be canceled and terminated with the consent of the surety. This section shall not affect the liability of any licensee or his bondsman arising from any act or omission of the licensee done or omitted prior to the revocation of the license.

345.140 Suspension or revocation of school license as affecting salesman's license. The suspension or revocation of a vocational school's license shall ipso facto suspend the license of every salesman employed by or for such vocational school, pending a change of employer. Such salesman's license shall be reinstated without charge, if such reinstatement is made during the calendar year in which the original license was granted, upon delivery of such salesman's license for notation of reinstatement thereon.

345.150 Hearing before denial, suspension or revocation of license; notice. The superintendent shall, before denying any application for a license or before suspending or revoking any license, set the matter down for hearing. At least 10 days prior to the date set for such hearing, he shall notify the applicant or licensee in writing, setting forth a concise statement of the charges made and the date and place of such hearing. The written notice shall be served by delivery thereof personally to the applicant or licensee, or by registered mail directed to such applicant or licensee at his last-known postoffice address. If such applicant or licensee is a salesman, the superintendent shall simultaneously notify the vocational school employing, or about to employ, him of such hearing, by registered mail directed to such vocational school at its last-known postoffice address. The hearing shall be held at such time and place as the superintendent shall prescribe, and may be by him continued from time to time. At such hearing, such applicant or licensee shall be accorded full opportunity to be heard in person or by counsel.

345.160 Powers of superintendent; compelling attendance of witnesses; production of papers and records. The superintendent shall have power to administer oaths, to certify to all his official acts, to subpoena and bring before him any person in this state as a witness, to require the production of books, records and papers, to swear witnesses and to take the testimony of any person by deposition. The same fees and mileage shall be allowed and paid to witnesses in all such cases as are allowed by law in the trial of civil cases in justice of the peace courts. The applicant or licensee shall have the right to the compulsory attendance of witnesses in his behalf at such hearing, upon making a written request therefor to the superintendent, naming the persons sought to be subpoenaed and advanc-

ing the witness fees and mileage for such witnesses.

345.170 Judicial enforcement of superintendent's subpoena. The circuit court in and for the county in which the hearing is set to be held shall have the power to compel the attendance of witnesses, the giving of testimony, and the production of books, records and papers as required by any subpoena issued by the superintendent. In case of the refusal of any witness to attend, testify or produce any books, records or papers required by such subpoena, the superintendent may report to such circuit court by petition. The petition shall show that due notice of the time and place for the attendance of such witness or the production of such books, records or papers was given, that such witness was subpoenaed in the manner prescribed and that such witness failed or refused to comply with such subpoena or refused to answer questions propounded to him in the course of such hearing, and the petition shall pray for a court order compelling such witness to attend and testify, or to produce such books, records or papers, before the superintendent. Upon such petition, the court shall enter an order directing such witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of such order, then and there to show cause why he has not attended or testified or produced such books, records or papers before the superintendent, as so required. A copy of such order shall be served personally upon the witness. If, on such show-cause hearing, it appears to the court that such subpoena was regularly issued by the superintendent and duly served, the court thereupon shall enter an order that such witness appear before the superintendent at a time and place fixed in said order, and testify or produce the required books, records or papers, and, if he fails to obey such order, such witness shall be dealt with as for a contempt of court.

345.180 Superintendent's order after hearing. If, upon hearing before him, the superintendent determines that an applicant is not qualified to receive a license, he shall enter an order denying the application therefor of such applicant; and if, upon such hearing, the superintendent determines that any licensee is guilty of a violation of any of the provisions of ORS 345.010 to 345.220, he shall enter an order suspending or revoking such licensee's license.

345.190 Appeal to circuit court. Any party in interest who is aggrieved by the decision of the superintendent may appeal from such order to the circuit court in and for the county in which the hearing was held. In order to perfect such appeal, the aggrieved party shall, within 30 days after the entry of the superintendent's order, serve or cause to be served upon and file in the office of the superintendent a written notice of such appeal stating the grounds thereof, and file an appeal bond in the penal sum of \$250, with good and sufficient surety to be approved by the superintendent, running to the State of Oregon, conditioned for the speedy prosecution of such appeal, and for the payment of such costs and disbursements as may be awarded against such appellant upon such appeal. Within 10 days after service and filing of such notice and bond, the superintendent shall transmit to the clerk of the circuit court a transcript of the entire proceeding in the superintendent's office. The clerk of court thereupon shall docket the appeal, and it shall stand for trial in all respects as though it were a suit in equity in such court, and like proceedings shall be had thereon. Upon appeal, the cause shall be tried de novo as a suit in equity.

345.200 Appeal to Supreme Court. Either party may appeal from the circuit court decree to the Supreme Court in like manner as in suits in equity. If such decree is in favor of the party appealing from the superintendent's decision and the superintendent does not appeal from such decree within 60 days from its entry, the superintendent shall, upon the expiration of such 60-day period, issue to such successful party the license applied for or reinstate the license suspended or revoked. In case of appeal to the Supreme Court by the superintendent, no such license shall be issued or reinstated until final determination in the Supreme Court favorable to such applicant or licensee.

345.210 Suit by vocational school; allegation and proof of license. No vocational school shall bring or maintain any suit or action in any court in or of this state for a cause of suit or action arising out of the doing of business by it as such in this state, without alleging and proving that it was duly licensed under this chapter at the time such cause of suit or action arose.

345.220 Vocational School License Account; appropriation; assistants; expenses. (1) All moneys received under this chapter

shall be paid by the superintendent to the State Treasurer, and shall be by the latter placed to the credit of the General Fund in the Vocational School License Account. So much of such account as may be necessary hereby is appropriated for the payment of all expenses incurred by the superintendent in administering and enforcing ORS 345.010 to 345.230.

(2) The superintendent may employ and fix the compensation of such persons as may be necessary and may incur such expenses as may be necessary, in carrying out the purposes of ORS 345.010 to 345.230.

345.230 Jurisdiction of courts; remedies are additional. Justice of the peace courts and district courts shall have concurrent jurisdiction with the circuit courts in criminal actions brought under the provisions of ORS 345.010 to 345.220 and 345.990. The remedies provided in ORS 345.010 to 345.220 and 345.990 are in addition to, and not exclusive of, any other remedies provided by law.

345.240 Discrimination prohibited. No vocational, professional or trade school, chartered or licensed under the provisions of any law of the State of Oregon shall refuse

admission to or discriminate in admission against or discriminate in giving instruction to any person otherwise qualified, on the ground of such person's race, color, religion or national origin.

345.250 Action upon violation of ORS 345.240. The appropriate state agency charged with the licensing or approval of any vocational, professional or trade school may suspend or revoke the license or approval of such school upon submission to it of proof that any such school has violated ORS 345.240. Before an order of suspension or revocation is made, notice of complaint shall be given and a hearing held in substantially the same manner as provided in ORS 659.060; and an appeal may be taken from the order of suspension or revocation in substantially the same manner as provided in ORS 659.080 and 659.090.

345.990 Penalties. Violation of any provision of ORS 345.010 to 345.220 is punishable, upon conviction of a person, by a fine of not more than \$500 or imprisonment in the county jail for a term not exceeding six months, or both; or, upon conviction of a corporation, by a fine of not more than \$1,000.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

