# Chapter 345

## 1967 REPLACEMENT PART
(1969 reprint)

# Private Vocational Schools


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## DEFINITIONS

**345.010 Chapter definitions.** As used in this chapter:

(1) "Board" means the State Board of Education.

(2) A "foreign vocational or correspondence school" is a vocational school domiciled in a state other than Oregon.

(3) A "salesman or agent" 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.

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

(5) A "vocational school" is any person who conducts or holds himself out as conducting any private college, school, source, base or other means or offers any course for the purpose or purported purpose of training, teaching or preparing persons for any vocation, profession or avocation; or for the purpose of instruction in behind-the-wheel driver training except as exempted in ORS 345.015.

(6) An "official" is any person who holds a position or office of authority or control in the operation of a vocational school.

[Amended by 1957 c.279 §1; 1961 c.268 §1; 1965 c.529 §12]

## LICENSING

**345.015 Application of chapter.** This chapter does not apply to:

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

(2) Other classes 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 or denominational institution.

(5) Any summer high school conducted under district school board regulations and which offers courses in regular high school work or credit toward a high school diploma.

[Amended by 1961 c.268 §2; 1965 c.529 §13]

**345.020 Duty and powers of Superintendent of Public Instruction; interest in vocational schools prohibited.** (1) The superintendent shall administer this chapter and shall enforce all laws, rules and regulations relating to the licensing of vocational schools, salesmen and agents thereunder. Subject to and under the provisions of this chapter, 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 required by or provided in this chapter and necessary to their enforcement. He may enforce reasonable rules and regulations established by the board which are necessary for the proper administration and enforcement of this chapter.

(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 employe thereof.

[Amended by 1955 c.527 §1; 1961 c.268 §3]

**345.030 Vocational schools, salesmen and agents to be licensed.** (1) No person shall open, conduct or do business as a vocational school in this state, and no person shall act as a salesman or agent for a vocational school within this state without a license in good standing therefor under this chapter.

(2) (a) No person shall act as a salesman or agent of any foreign vocational or correspondence school unless he has obtained a license therefor under this chapter.

(b) No person shall act as a salesman or agent for any foreign or resident vocational or correspondence school without having secured a license therefor under this chapter.

(3) No person shall act as salesman or agent for a vocational school domiciled in Oregon unless and until such vocational school has obtained a license under this chapter to do business in this state.

[Amended by 1961 c.268 §4; paragraph (b) of subsection (2) and subsection (3) formerly 345.050]

**345.040 Requirements for issuance of licenses.** (1) Licenses to conduct vocational schools shall be granted only to such persons as are trustworthy, competent, ethical 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 or his representative. No vocational school shall be licensed in this state if any official or salesman thereof has been convicted of any felony or a misdemeanor involving moral turpitude. This provision shall not apply with respect to a member of such school's faculty except where such faculty member is also an official or salesman of such school, or where such faculty member has

been convicted of a felony or misdemeanor involving the illegal use, sale, or possession of narcotics, or involving any sexual offense.

(2) A salesman's or agent's license shall be granted only to a person who has attained the age of 21 years, 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.

(3) No salesman or agent representing a foreign vocational or correspondence school shall solicit business or sell its courses within this state unless he first secures a license from the office of the State Superintendent of Public Instruction in the manner and on the terms provided in this chapter.

(4) The superintendent may recognize schools and divisions accredited by nationally recognized regional and professional accrediting agencies listed by the U. S. Office of Education for licensing purposes.
[Amended by 1961 c.268 §5]

**345.050** [Amended by 1961 c.268 §6; renumbered as part of 345.030]

**345.060 Foreign or nonresident applicant's appointment of superintendent as agent for service of process; service of process.** (1) Every foreign or nonresident applicant for a license to act as salesman or agent for a foreign vocational or correspondence school 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 appoinment.

(2) When any summons, pleading, writ or process is served on the superintendent, service shall be by duplicate copies. One of the duplicates shall be filed in the office of the superintendent and the other immediately forwarded by certified mail to the applicant thereby affected or therein named, at the applicant's last-known postoffice address; and, if service is of a summons, the plaintiff therein shall also cause the applicant to be served therewith by publication or in the manner provided by ORS 15.110.
[Amended by 1961 c.268 §7]

**345.070 Annual issuance of license; carrying or displaying 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 or agent shall carry with him at all times while engaged as such, the license so issued to him, and each vocational school shall display its license in a prominent place.
[Amended by 1961 c.268 §8]

**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; for a resident vocational school salesman's or agent's license, $15; and for a foreign vocational or correspondence school salesman's or agent's license, $25.

(2) All fees so collected shall be paid into the General Fund in the State Treasury.
[Amended by 1955 c.527 §2; 1961 c.268 §9]

**345.090 Application for license.** (1) Every applicant for a license under this chapter shall apply therefor in writing upon blanks prepared and supplied by the superintendent. The application for all vocational school salesmen or agents shall be accompanied by the authenticated written recommendation of at least three 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 personally acquainted with the applicant, that the applicant bears a good reputation for truthfulness, honesty, fair-dealing and competency and that they recommend that a license be granted to the applicant.

(2) 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.
[Amended by 1961 c.268 §10]

**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 345.110 and 345.120 to 345.210 and all rules and regulations of the superintendent promulgated thereunder.

(2) Every application for a salesman's or agent's license shall be accompanied by a bond 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 this chapter and all rules and regulations of the board promulgated thereunder, and further, that any person, including his employer, may sue and recover on such bond of such salesman or agent for any loss or damage sustained, resulting from any defalcation or fraud of such salesman or agent.

(a) For a salesman or agent representing a vocational school domiciled in Oregon, the bond shall be in the amount of $1,000.

(b) For a salesman or agent representing a foreign vocational or correspondence school, the bond shall be in the amount of $2,500.

[Amended by 1961 c.268 §11]

**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 sureties, 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.

**345.115 Refund schedule as part of tuition and training contract; effect of failure to comply.** (1) On and after August 13, 1965, the tuition and training contract entered into between a person and a vocational school for the purpose of obtaining instruction in the vocational school shall contain a schedule for the refund of tuition, deposits and fees when the person does not complete the course of instruction which was the subject of the contract. No action or suit may be brought by a school or its assigns on a contract that does not contain this refund schedule, but this provision shall not limit this school's right to defend any action or suit brought by any person on a contract which does not contain such a schedule.

(2) The refund schedule required by subsection (1) of this section shall be established by the superintendent in consultation with the advisory committee appointed under ORS 345.330. In establishing the refund schedule, the superintendent shall consider the reasonable, obligated and fixed costs of the vocational school, including but not limited to rent, personnel and nonreturnable supplies.

(3) Nothing in this section is intended to prevent a vocational school from requiring an advance deposit of tuition on behalf of the person intending to enroll in the vocational school.

[1965 c.409 §2; 1967 c.67 §16]

**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 found after hearing to have:

(1) Made any substantial misrepresentation;

(2) Made any false promise of a character likely to induce enrollment;

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

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

(5) Been 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;

(6) Taken any other action constituting improper, fraudulent or dishonest dealing; or

(7) Entered into a contract which violates ORS 345.115.

[Amended by 1965 c.409 §3]

**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 subpena 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 subpenaed and advancing the witness fees and mileage for such witnesses.

**345.170 Judicial enforcement of superintendent's subpena.** 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 subpena 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 subpena, 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 subpenaed in the manner prescribed and that such witness failed or refused to comply with such subpena 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 subpena 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 345.110 or 345.120 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 Deposit of funds; appropriations; personnel; expenses; advisory committee.** (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 State Treasury. All expenses incurred by the superintendent in administering and enforcing this chapter or incurred by the advisory committee appointed under ORS 345.330 in carrying out its duties, when approved by the superintendent but not including any reimbursement for personal expenses of the members, shall be paid out of funds appropriated therefor to the Department of Education.

(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 to carry out the purposes of this chapter.

[Amended by 1961 c.268 §12; 1965 c.529 §14]

**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 345.110 or 345.120 to 345.220 and 345.990. The remedies provided in ORS 345.010 to 345.110 or 345.120 to 345.220 and 345.990 are in addition to, and not exclusive of, any other remedies provided by law.

**345.240 Discrimination prohibited.** (1) No vocational, professional or trade school 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.

(2) As used in this section and ORS 345.250, "license" includes a permit, certification of registration or any other form of approval required in order for a vocational, professional or trade school to operate.
[Amended by 1957 c.724 §11]

**345.250 Action upon violation of ORS 345.240.** The appropriate state agency charged with the licensing of any vocational, professional or trade school may suspend or revoke the license of the school upon submission to it of proof that the school has violated ORS 345.240. A certified copy of a finding by the Commissioner of the Bureau of Labor under ORS 659.060 that the school has violated ORS 345.240 may be deemed adequate proof of a violation of 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 the manner of suspension or revocation of the license for any other reason. An appeal may be taken from the order of suspension or revocation in substantially the same manner as an appeal from any other order of suspension or revocation of the license by the agency.
[Amended by 1957 c.724 §12]

## STANDARDS

**345.310 Application of ORS 341.455 and 345.310 to 345.380.** ORS 341.455 and 345.310 to 345.380 apply only to vocational schools located in this state, and do not apply to foreign vocational or correspondence schools as defined in ORS 345.010.
[1965 c.529 §2]

**345.320 Purpose.** The Legislative Assembly finds that private vocational schools operated in this state are capable of increasing the educational opportunities available in this state and of making a contribution to the social and economic progress of the people of this state. Private vocational schools offer different approaches to education than do public schools and are often able to provide vocational and placement assistance not otherwise available. It is the intent of the Legislative Assembly to provide for standards for the operation of private vocational schools which will strengthen them and provide protection to the students attending them and to the public generally.
[1965 c.529 §3]

**345.330 Advisory committee; function.** (1) The superintendent shall appoint a representative advisory committee of seven officials from vocational schools to which ORS 341.455 and 345.310 to 345.380 apply to serve for a term of four years.

(2) The advisory committee appointed under subsection (1) of this section shall:

(a) Conduct studies and make recommendations to the board concerning the need for vocational and technical education facilities, the types of education needed and by whom it can best be provided.

(b) Develop recommended standards for vocational schools as provided in ORS 345.340 which are consistent with the purposes of such schools.

(c) Investigate and present findings to the board on the administration and operation of laws relating to vocational schools. However, the investigations and findings of the advisory committee do not affect the authority of the Superintendent of Public Instruction to issue, suspend or revoke the license of any vocational school.

(d) Consult with the superintendent in determining the refund schedule under ORS 345.115.
[1965 c.529 §4; 1967 c.67 §17]

**345.340 Recommended minimum standards.** The advisory committee shall recommend to the board minimum standards for the operation of vocational schools. In making its recommendations, the committee shall

consider changes in technological, economic and social conditions which affect employment needs and opportunities. The committee recommendations may specify minimum standards for:

(1) Training conditions and facilities;

(2) Health, safety and welfare of trainees;

(3) Nature, scope and measurable levels of competency of desirable training; and

(4) Such other matters as the committee may consider necessary.

[1965 c.529 §5]

**345.350 Adoption of minimum standards; publication.** (1) The board may adopt minimum standards for the operation of vocational schools and may provide for classification of such schools and for the adoption of differing standards appropriate to differing classifications. The board may, but is not required to, adopt minimum standards recommended by the advisory committee established under ORS 345.330 and it may further adopt standards not recommended by the advisory committee. The board may revise any standards adopted under this section. Standards must be adopted in compliance with ORS chapter 183.

(2) If the board approves and adopts the standards under subsection (1) of this section, the superintendent shall cause the standards to be published in the same manner rules are published under ORS chapter 183.

[1965 c.529 §§6, 10]

**345.360 Certificates of compliance; issuance; renewal; suspension; revocation.** (1) The superintendent shall cause to be issued certificates of compliance to vocational schools which demonstrate compliance with the standards adopted under ORS 345.340. However, the certificate of compliance shall not be required of any vocational school as a condition to issuance or continuance of its license. The certificate of compliance expires one year after the date of issuance, unless sooner revoked or suspended.

(2) A certificate of compliance may be revoked or suspended by the superintendent if he finds that the vocational school holding such certificate does not meet standards adopted by the board. The provisions of ORS 345.150 to 345.200 shall apply to the denial, suspension or revocation of a certificate of compliance. The certificate of compliance shall be surrendered promptly to the superintendent upon such suspension or revocation and shall be retained by him so long as the vocational school is not in compliance with the standards.

[1965 c.529 §7]

**345.370 Recommendations on standards for courses to be given credit at community colleges.** The advisory committee appointed under ORS 345.330 may recommend to the board standards for vocational school courses which may be recognized for credit by community colleges. The recommendation may be revised periodically.

[1965 c.529 §8]

**345.380 Rules.** The board shall adopt rules necessary to carry out the provisions of ORS 345.330 to 345.380.

[1965 c.529 §11]

## PENALTIES

**345.990 Penalties.** Violation of any provision of ORS 345.010 to 345.110 or 345.120 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, Robert W. Lundy, 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 December 1, 1967.

Robert W. Lundy
Legislative Counsel