

1                                   A bill to be entitled  
2           An act relating to the Department of Agriculture and  
3           Consumer Services; transferring, redesignating, and  
4           amending s. 525.09(1), F.S.; transferring collection  
5           of a motor fuel inspection fee from the Department of  
6           Agriculture and Consumer Services to the Department of  
7           Revenue; amending s. 493.6101, F.S.; revising the  
8           definition of the term "repossession"; amending s.  
9           493.6113, F.S.; revising firearms recertification  
10          training requirements for specified licenses of the  
11          private security, private investigative, and  
12          repossession industries; amending s. 493.6116, F.S.;  
13          deleting a provision prohibiting specified licensees  
14          from sponsoring certain interns; requiring interns to  
15          perform regulated duties within the state; amending s.  
16          493.6118, F.S.; providing additional grounds for  
17          disciplinary action against firearm licensees;  
18          amending s. 493.6120, F.S.; providing criminal  
19          penalties for a person who knowingly obtains a  
20          fraudulent document declaring a licensure applicant to  
21          have completed specified training; amending s.  
22          496.405, F.S.; revising procedures and requirements  
23          with respect to the submission and processing of  
24          registration statements and renewal statements by  
25          charitable organizations and sponsors; amending s.  
26          496.406, F.S.; exempting specified organizations and  
27          sponsors from filing a registration statement;  
28          requiring exempt organizations and sponsors to file

29 | specified documents; providing for applicability;  
30 | amending s. 496.407, F.S.; revising financial  
31 | reporting requirements; amending s. 496.409, F.S.;  
32 | revising registration procedures and requirements for  
33 | professional fundraising consultants; amending s.  
34 | 496.410, F.S.; revising registration procedures and  
35 | requirements for professional solicitors; amending s.  
36 | 496.411, F.S.; revising the information required to be  
37 | displayed on specified solicitation materials;  
38 | amending s. 496.415, F.S.; revising a provision  
39 | prohibiting specified persons from submitting false,  
40 | misleading, or inaccurate information related to a  
41 | solicitation or a charitable or sponsor sales  
42 | promotion; amending s. 496.419, F.S.; revising the  
43 | responsibility of the Department of Agriculture and  
44 | Consumer Services to report specified criminal  
45 | violations; authorizing the department to issue a  
46 | cease and desist order for specified violations;  
47 | amending s. 501.016, F.S.; revising the amount of a  
48 | surety bond, letter of credit, or guaranty agreement  
49 | furnished to the department by a health studio;  
50 | amending s. 501.059, F.S.; prohibiting a telephone  
51 | solicitor from calling certain consumers; amending s.  
52 | 501.603, F.S.; conforming a cross-reference; revising  
53 | definitions; amending s. 501.604, F.S.; revising  
54 | exemptions from specified provisions of the Florida  
55 | Telemarketing Act; amending s. 501.607, F.S.; revising  
56 | salesperson application requirements; amending s.

57 | 501.608, F.S.; requiring commercial telephone sellers  
58 | seeking an affidavit of exemption to provide the  
59 | department with certain information at the  
60 | department's request; requiring licensees and exempt  
61 | persons to display certain documentation; authorizing  
62 | the department to issue a cease and desist order and  
63 | to order a salesperson to leave an office if the  
64 | salesperson is unable to properly display or produce a  
65 | license or a receipt of filing of an affidavit of  
66 | exemption; amending s. 501.611, F.S.; providing that a  
67 | surety bond filed with the department by a commercial  
68 | telephone seller remains in force for a specified  
69 | period; amending s. 501.615, F.S.; revising the  
70 | contract requirements and restrictions on telephonic  
71 | sales by commercial telephone sellers; amending s.  
72 | 501.617, F.S.; authorizing an enforcing authority to  
73 | conduct regulatory inspections; amending s. 507.03,  
74 | F.S.; requiring moving brokers to provide certain  
75 | information at the request of the department; amending  
76 | s. 507.04, F.S.; deleting the requirement for a moving  
77 | broker to maintain certain liability coverage;  
78 | amending s. 507.07, F.S.; prohibiting movers and  
79 | moving brokers from entering into certain service  
80 | contracts with certain unregistered persons; amending  
81 | s. 525.01, F.S.; revising the definition of the term  
82 | "alternative fuel"; repealing s. 525.09(2)-(4), F.S.,  
83 | relating to the payment and applicability of an  
84 | inspection fee for testing and analyzing petroleum

85 | fuels; amending s. 525.10, F.S.; deleting a provision  
86 | requiring certain moneys to be paid into the State  
87 | Treasury before being deposited into a specified trust  
88 | fund; amending s. 525.16, F.S.; requiring entities  
89 | that sell or distribute certain fuels to meet fuel  
90 | standards adopted by the department; providing a  
91 | release of liability for certain entities who supply  
92 | and blend fuels that meet department standards;  
93 | amending s. 526.141, F.S.; providing that certain  
94 | entities are not liable for damages resulting from the  
95 | use of incompatible motor fuels under certain  
96 | circumstances; amending s. 527.01, F.S.; defining the  
97 | term "license year" applicable to certain liquefied  
98 | petroleum gas licenses; amending s. 527.0201, F.S.;  
99 | revising examination requirements for applicants  
100 | seeking certain licenses; revising continuing  
101 | education requirements for specified qualifiers;  
102 | amending s. 527.03, F.S.; revising the requirements  
103 | and procedure for renewal of liquefied petroleum gas  
104 | licenses; amending s. 531.415, F.S.; revising a  
105 | provision exempting certain petroleum equipment from  
106 | specified fees; amending s. 531.61, F.S.; revising a  
107 | provision exempting certain devices from permitting  
108 | requirements; creating s. 531.67, F.S., and repealing  
109 | s. 40, ch. 2009-66, Laws of Florida, relating to  
110 | permits for weights and measures instruments or  
111 | devices, to provide for codification in the Florida  
112 | Statutes of the expiration of specified provisions and

113 extending the expiration date; amending s. 539.001,  
114 F.S.; revising fingerprinting requirements for a  
115 pawnbroker license application; amending s. 559.802,  
116 F.S.; requiring a specified notice to be filed on a  
117 form adopted by the department; amending s. 559.803,  
118 F.S.; revising the requirements of the mandatory  
119 written disclosure statement provided to purchasers of  
120 business opportunities; repealing s. 559.805, F.S.,  
121 relating to mandatory filings and disclosure of  
122 advertisement identification numbers by sellers of  
123 business opportunities; amending s. 559.807, F.S.;  
124 deleting a provision providing for the use of certain  
125 securities requirements relating to selling business  
126 opportunities; amending s. 559.813, F.S.; deleting a  
127 provision authorizing the department to impose  
128 specified penalties for certain violations relating to  
129 selling business opportunities; deleting a provision  
130 authorizing the department to adopt rules; deleting a  
131 provision naming the department as an enforcing  
132 authority; amending s. 559.815, F.S.; conforming  
133 provisions to changes made by the act; amending s.  
134 559.9221, F.S.; revising the membership of the Motor  
135 Vehicle Repair Advisory Council; amending s. 616.242,  
136 F.S.; revising amusement ride insurance coverage  
137 requirements; amending s. 721.20, F.S.; requiring  
138 specified persons who sell timeshare plans to be  
139 licensed as commercial telephone sellers or  
140 salespersons under ch. 501, F.S.; providing for

141 severability; providing an effective date.

142

143 Be It Enacted by the Legislature of the State of Florida:

144

145 Section 1. Subsection (1) of section 525.09, Florida  
 146 Statutes, is transferred, redesignated as paragraph (h) of  
 147 subsection (1) of section 206.41, Florida Statutes, and amended  
 148 to read:

149 206.41 State taxes imposed on motor fuel.—

150 (1) The following taxes are imposed on motor fuel under  
 151 the circumstances described in subsection (6):

152 (h) ~~(1)~~ An additional 0.125 cents per net gallon is levied  
 153 on all motor fuel for sale or use in this state for the purpose  
 154 of defraying the expenses incident to inspecting, testing, and  
 155 analyzing motor fuel ~~petroleum fuels~~ in this state, there shall  
 156 be paid to the department a charge of one-eighth cent per gallon  
 157 on all gasoline, kerosene (except when used as aviation turbine  
 158 fuel), and #1 fuel oil for sale or use in this state. All moneys  
 159 collected pursuant to this paragraph shall be deposited into the  
 160 State Treasury. Such moneys shall be distributed monthly into  
 161 the General Inspection Trust Fund. This inspection fee shall be  
 162 imposed in the same manner as the motor fuel tax pursuant to s.  
 163 206.41. Payment shall be made on or before the 25th day of each  
 164 month.

165 Section 2. Subsection (22) of section 493.6101, Florida  
 166 Statutes, is amended to read:

167 493.6101 Definitions.—

168 (22) "Repossession" means the recovery of a motor vehicle

169 as defined under s. 320.01(1), a mobile home as defined in s.  
170 320.01(2), a motorboat as defined under s. 327.02, an aircraft  
171 as defined in s. 330.27(1), a personal watercraft as defined in  
172 s. 327.02, an all-terrain vehicle as defined in s. 316.2074,  
173 farm equipment as defined under s. 686.402, or industrial  
174 equipment, by an individual who is authorized by the legal  
175 owner, lienholder, or lessor to recover, or to collect money  
176 payment in lieu of recovery of, that which has been sold or  
177 leased under a security agreement that contains a repossession  
178 clause. As used in this subsection, the term "industrial  
179 equipment" includes, but is not limited to, tractors, road  
180 rollers, cranes, forklifts, backhoes, and bulldozers. The term  
181 "industrial equipment" also includes other vehicles that are  
182 propelled by power other than muscular power and that are used  
183 in the manufacture of goods or used in the provision of  
184 services. A repossession is complete when a licensed recovery  
185 agent is in control, custody, and possession of such repossessed  
186 property. Property that is being repossessed shall be considered  
187 to be in the control, custody, and possession of a recovery  
188 agent if the property being repossessed is secured in  
189 preparation for transport from the site of the recovery by means  
190 of being attached to or placed on the towing or other transport  
191 vehicle or if the property being repossessed is being operated  
192 or about to be operated by an employee of the recovery agency.

193 Section 3. Paragraph (b) of subsection (3) of section  
194 493.6113, Florida Statutes, is amended to read:

195 493.6113 Renewal application for licensure.—

196 (3) Each licensee is responsible for renewing his or her

197 license on or before its expiration by filing with the  
198 department an application for renewal accompanied by payment of  
199 the prescribed license fee.

200 (b) Each Class "G" licensee shall additionally submit  
201 proof that he or she has received during each year of the  
202 license period a minimum of 4 hours of firearms recertification  
203 training taught by a Class "K" licensee and has complied with  
204 such other health and training requirements which the department  
205 shall ~~may~~ adopt by rule. Proof of completion of firearms  
206 recertification training shall be submitted to the department  
207 upon completion of the training. If documentation of completion  
208 of the required training is not submitted by the end of the  
209 first year of the 2-year term of the license, the individual's  
210 license shall be automatically suspended until proof of the  
211 required training is submitted to the department. If  
212 documentation of completion of the required training is not  
213 submitted by the end of the second year of the 2-year term of  
214 the license, the license shall not be renewed unless ~~If proof of~~  
215 ~~a minimum of 4 hours of annual firearms recertification training~~  
216 ~~cannot be provided,~~ the renewal applicant completes ~~shall~~  
217 ~~complete~~ the minimum number of hours of range and classroom  
218 training required at the time of initial licensure. The  
219 department may waive the ~~foregoing~~ firearms training requirement  
220 if:

221 1. The applicant provides proof that he or she is  
222 currently certified as a law enforcement officer or correctional  
223 officer under the Criminal Justice Standards and Training  
224 Commission and has completed law enforcement firearms



225 requalification training annually during the previous 2 years of  
 226 the licensure period;—

227 2. The applicant provides proof that he or she is  
 228 currently certified as a federal law enforcement officer and has  
 229 received law enforcement firearms training administered by a  
 230 federal law enforcement agency annually during the previous 2  
 231 years of the licensure period; or—

232 3. The applicant submits a valid firearm certificate among  
 233 those specified in s. 493.6105(6) (a) and provides proof of  
 234 having completed requalification training during the previous 2  
 235 years of the licensure period.

236 Section 4. Subsection (3) of section 493.6116, Florida  
 237 Statutes, is amended to read:

238 493.6116 Sponsorship of interns.—

239 (3) Internship is intended to serve as a learning process.  
 240 Sponsors shall assume a training status by providing direction  
 241 and control of interns. Sponsors ~~shall only sponsor interns~~  
 242 ~~whose place of business is within a 50-mile distance of the~~  
 243 ~~sponsor's place of business and shall not allow interns to~~  
 244 operate independently of such direction and control, ~~or require~~  
 245 interns to perform activities that ~~which~~ do not enhance the  
 246 intern's qualification for licensure. Interns must perform  
 247 regulated duties within the boundaries of this state during the  
 248 period of internship.

249 Section 5. Paragraphs (u) and (v) of subsection (1) of  
 250 section 493.6118, Florida Statutes, are redesignated as  
 251 paragraphs (w) and (x), respectively, and new paragraphs (u) and  
 252 (v) are added to that subsection to read:

253 493.6118 Grounds for disciplinary action.—

254 (1) The following constitute grounds for which  
 255 disciplinary action specified in subsection (2) may be taken by  
 256 the department against any licensee, agency, or applicant  
 257 regulated by this chapter, or any unlicensed person engaged in  
 258 activities regulated under this chapter.

259 (u) For a Class "G" licensee, failing to timely complete  
 260 recertification training as required in s. 493.6113(3)(b).

261 (v) For a Class "K" licensee, failing to maintain active  
 262 certification specified under s. 493.6105(6).

263 Section 6. Subsection (1) of section 493.6120, Florida  
 264 Statutes, is amended, and subsection (5) is added to that  
 265 section, to read:

266 493.6120 Violations; penalty.—

267 (1) Any person who violates any provision of this chapter  
 268 except subsection (5) and s. 493.6405 commits a misdemeanor of  
 269 the first degree, punishable as provided in s. 775.082 or s.  
 270 775.083.

271 (5) A person may not knowingly possess, issue, cause to be  
 272 issued, sell, submit, or offer a fraudulent training  
 273 certificate, proficiency form, or other official document that  
 274 declares an applicant to have successfully completed any course  
 275 of training required for licensure under this chapter when that  
 276 person either knew or reasonably should have known that the  
 277 certificate, form, or document was fraudulent. A person who  
 278 violates this subsection commits a felony of the third degree,  
 279 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

280 Section 7. Paragraph (b) of subsection (1) and subsections

281 (2) and (7) of section 496.405, Florida Statutes, are amended to  
 282 read:

283 496.405 Registration statements by charitable  
 284 organizations and sponsors.—

285 (1)

286 (b) Any changes in the information submitted on the  
 287 initial registration statement or the last renewal statement  
 288 must be updated annually on a renewal statement provided by the  
 289 department on or before the date that marks one year after the  
 290 date the department approved the initial registration statement  
 291 as provided in this section. The department shall annually  
 292 provide a renewal statement to each registrant by mail or by  
 293 electronic mail at least 30 ~~60~~ days before the renewal date.

294 (2) The initial registration statement must be submitted  
 295 on a form prescribed by the department, signed ~~under oath~~ by an  
 296 authorized official ~~the treasurer or chief fiscal officer~~ of the  
 297 charitable organization or sponsor who shall certify that the  
 298 registration statement is true and correct, and include the  
 299 following information or material:

300 (a) A copy of the financial report or Internal Revenue  
 301 Service Form 990 and all attached schedules ~~Schedule A~~ or  
 302 Internal Revenue Service Form 990-EZ and Schedule O required  
 303 under s. 496.407 for the immediately preceding fiscal year. A  
 304 newly organized charitable organization or sponsor with no  
 305 financial history must file a budget for the current fiscal  
 306 year.

307 (b) The name of the charitable organization or sponsor,  
 308 the purpose for which it is organized, the name under which it

309 | intends to solicit contributions, and the purpose or purposes  
 310 | for which the contributions to be solicited will be used.

311 | (c) The name of the individuals or officers who are in  
 312 | charge of any solicitation activities.

313 | (d) A statement of whether:

314 | 1. The charitable organization or sponsor is authorized by  
 315 | any other state to solicit contributions;

316 | 2. The charitable organization or sponsor or any of its  
 317 | officers, directors, trustees, or principal salaried executive  
 318 | personnel have been enjoined in any jurisdiction from soliciting  
 319 | contributions or have been found to have engaged in unlawful  
 320 | practices in the solicitation of contributions or administration  
 321 | of charitable assets;

322 | 3. The charitable organization or sponsor has had its  
 323 | registration or authority denied, suspended, or revoked by any  
 324 | governmental agency, together with the reasons for such denial,  
 325 | suspension, or revocation; and

326 | 4. The charitable organization or sponsor has voluntarily  
 327 | entered into an assurance of voluntary compliance in any  
 328 | jurisdiction or agreement similar to that set forth in s.  
 329 | 496.420, together with a copy of that agreement.

330 | 5. The charitable organization or sponsor or any of its  
 331 | officers, directors, trustees, or employees, regardless of  
 332 | adjudication, has been convicted of, or found guilty of, or pled  
 333 | guilty or nolo contendere to, or has been incarcerated within  
 334 | the last 10 years as a result of having previously been  
 335 | convicted of, or found guilty of, or pled guilty or nolo  
 336 | contendere to, any felony ~~or any crime involving fraud, theft,~~

337 ~~larceny, embezzlement, fraudulent conversion, misappropriation~~  
338 ~~of property, or any crime arising from the conduct of a~~  
339 ~~solicitation for a charitable organization or sponsor~~ within the  
340 last 10 years and, if so, the name of such person, the nature of  
341 the offense, the date of the offense, the court having  
342 jurisdiction in the case, the date of conviction or other  
343 disposition, and the disposition of the offense.

344 6. The charitable organization or sponsor or any of its  
345 officers, directors, trustees, or employees, regardless of  
346 adjudication, has been convicted of, or found guilty of, or pled  
347 guilty or nolo contendere to, or has been incarcerated within  
348 the last 10 years as a result of having previously been  
349 convicted of, or found guilty of, or pled guilty or nolo  
350 contendere to, any crime involving fraud, theft, larceny,  
351 embezzlement, fraudulent conversion, misappropriation of  
352 property, or any crime enumerated in this chapter or resulting  
353 from acts committed while involved in the solicitation of  
354 contributions within the last 10 years and, if so, the name of  
355 such person, the nature of the offense, the date of the offense,  
356 the court having jurisdiction in the case, the date of  
357 conviction or other disposition, and the disposition of the  
358 offense.

359 ~~7.6.~~ The charitable organization or sponsor or any of its  
360 officers, directors, trustees, or employees has been enjoined  
361 from violating any law relating to a charitable solicitation,  
362 and, if so, the name of such person, the date of the injunction,  
363 and the court issuing the injunction.

364 (e) The names, street addresses, and telephone numbers of

365 any professional solicitor, professional fundraising consultant,  
366 and commercial co-venturer who is acting or has agreed to act on  
367 behalf of the charitable organization or sponsor, together with  
368 a statement setting forth the specific terms of the arrangements  
369 for salaries, bonuses, commissions, expenses, or other  
370 remunerations to be paid the fundraising consultant and  
371 professional solicitor.

372 (f) With initial registration only, a statement showing  
373 when and where the organization was established and the tax-  
374 exempt status of the organization together with a copy of any  
375 federal tax exemption determination letter. If the charitable  
376 organization or sponsor has not received a federal tax exemption  
377 determination letter at the time of initial registration, a copy  
378 of such determination must be filed with the department within  
379 30 days after receipt of the determination by the charitable  
380 organization or sponsor. If the organization is subsequently  
381 notified by the Internal Revenue Service of any challenge to its  
382 continued entitlement to federal tax exemption, the charitable  
383 organization or sponsor shall notify the department of this fact  
384 within 30 days after receipt.

385 (g) The following information must be filed with the  
386 initial registration statement and must be updated when any  
387 change occurs in the information that was previously filed with  
388 the initial registration statement:

389 1. The principal street address and telephone number of  
390 the organization and the street address and telephone numbers of  
391 any offices in this state or, if the charitable organization or  
392 sponsor does not maintain an office in this state, the name,

393 street address, and telephone number of the person that has  
 394 custody of its financial records. The parent organization that  
 395 files a consolidated registration statement on behalf of its  
 396 chapters, branches, or affiliates must additionally provide the  
 397 street addresses and telephone numbers of all such locations in  
 398 this state.

399 2. The names and street addresses of the officers,  
 400 directors, trustees, and the principal salaried executive  
 401 personnel.

402 3. The date when the charitable organization's or  
 403 sponsor's fiscal year ends.

404 4. A list or description of the major program activities.

405 5. The names, street addresses, and telephone numbers of  
 406 the individuals or officers who have final responsibility for  
 407 the custody of the contributions and who will be responsible for  
 408 the final distribution of the contributions.

409 (7) The department must examine each initial registration  
 410 statement or annual renewal statement and the supporting  
 411 documents filed by a charitable organization or sponsor and  
 412 shall determine whether the registration requirements are  
 413 satisfied. Within 15 ~~10~~ working days after its receipt of a  
 414 statement, the department must examine the statement, notify the  
 415 applicant of any apparent errors or omissions, and request any  
 416 additional information the department is allowed by law to  
 417 require. Failure to correct an error or omission or to supply  
 418 additional information is not grounds for denial of the initial  
 419 registration or annual renewal statement unless the department  
 420 has notified the applicant within the 15-working-day ~~10-working-~~

421 ~~day~~ period. The department must approve or deny each statement,  
422 or must notify the applicant that the activity for which she or  
423 he seeks registration is exempt from the registration  
424 requirement, within 15 ~~10~~ working days after receipt of the  
425 initial registration or annual renewal statement or the  
426 requested additional information or correction of errors or  
427 omissions. Any statement that is not approved or denied within  
428 15 ~~10~~ working days after receipt of the requested additional  
429 information or correction of errors or omissions is approved.  
430 Within 7 working days after receipt of a notification that the  
431 registration requirements are not satisfied, the charitable  
432 organization or sponsor may request a hearing. The hearing must  
433 be held within 7 working days after receipt of the request, and  
434 any recommended order, if one is issued, must be rendered within  
435 3 working days of the hearing. The final order must then be  
436 issued within 2 working days after the recommended order. If a  
437 recommended order is not issued, the final order must be issued  
438 within 5 working days after the hearing. The proceedings must be  
439 conducted in accordance with chapter 120, except that the time  
440 limits and provisions set forth in this subsection prevail to  
441 the extent of any conflict.

442 Section 8. Section 496.406, Florida Statutes, is amended  
443 to read:

444 496.406 Exemption from registration.—

445 (1) The following charitable organizations and sponsors  
446 are exempt from the requirements of s. 496.405:

447 (a) ~~(1)~~ A person who is soliciting for a named individual,  
448 provided that all the contributions collected without any



449 deductions whatsoever are turned over to the beneficiary for her  
450 or his use and provided that the person has complied with the  
451 requirements of s. 496.413.

452 (b) (2) A charitable organization or sponsor that ~~which~~  
453 limits solicitation of contributions to the membership of the  
454 charitable organization or sponsor. For the purposes of this  
455 paragraph, the term "membership" does not include those persons  
456 who are granted a membership upon making a contribution as a  
457 result of a solicitation.

458 (c) (3) Any division, department, post, or chapter of a  
459 veterans' service organization granted a federal charter under  
460 Title 36, United States Code.

461 (d) A charitable organization or sponsor that has less  
462 than \$25,000 in total revenue during a fiscal year if the  
463 fundraising activities of such organization or sponsor are  
464 carried on by volunteers, members, or officers who are not  
465 compensated and no part of the assets or income of such  
466 organization or sponsor inures to the benefit of or is paid to  
467 any officer or member of such organization or sponsor or to any  
468 professional fundraising consultant, professional solicitor, or  
469 commercial co-venturer. If a charitable organization or sponsor  
470 that has less than \$25,000 in total revenue during a fiscal year  
471 actually acquires total revenue equal to or in excess of  
472 \$25,000, the charitable organization or sponsor must register  
473 with the department as required by s. 496.405 within 30 days  
474 after the date the revenue reaches \$25,000.

475 (2) Before soliciting contributions, a charitable  
476 organization or sponsor claiming to be exempt from the

477 registration requirements of s. 496.405 under paragraph (1)(d)  
478 must submit annually to the department, on forms prescribed by  
479 the department:

480 (a) The name, address, and telephone number of the  
481 charitable organization or sponsor, the name under which it  
482 intends to solicit contributions, the purpose for which it is  
483 organized, and the purpose or purposes for which the  
484 contributions to be solicited will be used.

485 (b) The tax exempt status of the organization.

486 (c) The date on which the organization's fiscal year ends.

487 (d) The names, street addresses, and telephone numbers of  
488 the individuals or officers who have final responsibility for  
489 the custody of the contributions and who will be responsible for  
490 the final distribution of the contributions.

491 (e) A financial statement of support, revenue, and  
492 expenses and a statement of functional expenses that must  
493 include, but not be limited to, expenses in the following  
494 categories: program, management and general, and fundraising.  
495 In lieu of the financial statement, a charitable organization or  
496 sponsor may submit a copy of its Internal Revenue Service Form  
497 990 and all attached schedules or Internal Revenue Service Form  
498 990-EZ and Schedule O.

499 (3) A charitable organization or sponsor claiming to be  
500 exempt from the registration requirements of this chapter shall  
501 submit any information that the department may request to  
502 substantiate an exemption under this section. A charitable  
503 organization or sponsor that fails to submit information  
504 satisfactory to the department is not exempt from the

505 requirements of this chapter. In any proceeding, the burden of  
 506 proving an exemption is upon the charitable organization or  
 507 sponsor claiming it.

508 (4) Exemption from the registration requirements of s.  
 509 496.405 does not limit the applicability of other provisions of  
 510 this section to a charitable organization or sponsor.

511 Section 9. Subsection (2) of section 496.407, Florida  
 512 Statutes, is amended to read:

513 496.407 Financial report.—

514 (2) In lieu of the financial report described in  
 515 subsection (1), a charitable organization or sponsor may submit  
 516 a copy of its Internal Revenue Service Form 990 and all attached  
 517 schedules ~~Schedule A~~ filed for the preceding fiscal year, or a  
 518 copy of its Internal Revenue Service Form 990-EZ and Schedule O  
 519 filed for the preceding fiscal year.

520 Section 10. Subsections (2), (3), and (6) of section  
 521 496.409, Florida Statutes, are amended to read:

522 496.409 Registration and duties of professional  
 523 fundraising consultant.—

524 (2) Applications for registration or renewal of  
 525 registration must be submitted on a form prescribed by the  
 526 department, signed by an authorized official of the professional  
 527 fundraising consultant who shall certify that the report is true  
 528 and correct ~~under oath~~, and must include the following  
 529 information:

530 (a) The street address and telephone number of the  
 531 principal place of business of the applicant and any Florida  
 532 street addresses if the principal place of business is located

533 outside this state.

534 (b) The form of the applicant's business.

535 (c) The names and residence addresses of all principals of  
536 the applicant, including all officers, directors, and owners.

537 (d) Whether any of the owners, directors, officers, or  
538 employees of the applicant are related as parent, child, spouse,  
539 or sibling to any other directors, officers, owners, or  
540 employees of the applicant; to any officer, director, trustee,  
541 or employee of any charitable organization or sponsor under  
542 contract to the applicant; or to any supplier or vendor  
543 providing goods or services to any charitable organization or  
544 sponsor under contract to the applicant.

545 (e) Whether the applicant or any of its officers,  
546 directors, trustees, or employees have, within the last 10  
547 years, regardless of adjudication, been convicted, or found  
548 guilty of, or pled guilty or nolo contendere to, or have been  
549 incarcerated within the last 10 years as a result of having  
550 previously been convicted of, or found guilty of, or pled guilty  
551 or nolo contendere to, any felony and, if so, the name of such  
552 person, the nature of the offense, the date of the offense, the  
553 court having jurisdiction in the case, the date of conviction or  
554 other disposition, and the disposition of the offense.

555 (f) Whether the applicant or any of its officers,  
556 directors, trustees, or employees have, regardless of  
557 adjudication, been convicted of, or found guilty of, or pled  
558 guilty or nolo contendere to, or have been incarcerated within  
559 the last 10 years as a result of having previously been  
560 convicted of, or found guilty of, or pled guilty or nolo

561 | contendere to, a crime within the last 10 years involving fraud,  
562 | theft, larceny, embezzlement, fraudulent conversion, or  
563 | misappropriation of property, or any crime arising from the  
564 | conduct of a solicitation for a charitable organization or  
565 | sponsor and, if so, the name of such person, the nature of the  
566 | offense, the date of the offense, the court having jurisdiction  
567 | in the case, the date of conviction or other disposition, and  
568 | the disposition of the offense.

569 | (g) Whether the applicant or any of its officers,  
570 | directors, trustees, or employees have been enjoined from  
571 | violating any law relating to a charitable solicitation and, if  
572 | so, the name of such person, the date of the injunction, and the  
573 | court issuing the injunction.

574 | (3) The application for registration must be accompanied  
575 | by a fee of \$300. A professional fundraising consultant which is  
576 | a partnership or corporation may register for and pay a single  
577 | fee on behalf of all of its partners, members, officers,  
578 | directors, agents, and employees. In that case, the names and  
579 | street addresses of all the officers, employees, and agents of  
580 | the fundraising consultant and all other persons with whom the  
581 | fundraising consultant has contracted to work under its  
582 | direction must be listed in the application. Each registration  
583 | is valid for 1 year ~~or a part of 1 year and expires on March 31~~  
584 | ~~of each year~~. The registration may be renewed ~~on or before March~~  
585 | ~~31 of each year~~ for additional 1-year periods upon application  
586 | to the department and payment of the registration fee.

587 | (6) The department shall examine each registration  
588 | statement and supporting documents filed by a professional

589 fundraising consultant and determine whether the registration  
590 requirements are satisfied. If the department determines that  
591 the registration requirements are not satisfied, the department  
592 must notify the professional fundraising consultant within 15 ~~10~~  
593 working days after its receipt of the registration statement;  
594 otherwise the registration statement is approved. Within 7  
595 working days after receipt of a notification that the  
596 registration requirements are not satisfied, the applicant may  
597 request a hearing. The hearing must be held within 7 working  
598 days after receipt of the request, and any recommended order, if  
599 one is issued, must be rendered within 3 working days after the  
600 hearing. The final order must then be issued within 2 working  
601 days after the recommended order. If there is no recommended  
602 order, the final order must be issued within 5 working days  
603 after the hearing. The proceedings must be conducted in  
604 accordance with chapter 120, except that the time limits and  
605 provisions set forth in this subsection prevail to the extent of  
606 any conflict.

607 Section 11. Subsections (2), (3), (5), and (8) of section  
608 496.410, Florida Statutes, are amended to read:

609 496.410 Registration and duties of professional  
610 solicitors.—

611 (2) Applications for registration or renewal of  
612 registration must be submitted on a form prescribed by rule of  
613 the department, signed by an authorized official of the  
614 professional solicitor who shall certify that the report is true  
615 and correct ~~under oath~~, and must include the following  
616 information:

617 (a) The street address and telephone number of the  
618 principal place of business of the applicant and any Florida  
619 street addresses if the principal place of business is located  
620 outside this state.

621 (b) The form of the applicant's business.

622 (c) The place and date when the applicant, if other than  
623 an individual, was legally established.

624 (d) The names and residence addresses of all principals of  
625 the applicant, including all officers, directors, and owners.

626 (e) A statement as to whether any of the owners,  
627 directors, officers, or employees of the applicant are related  
628 as parent, spouse, child, or sibling to any other directors,  
629 officers, owners, or employees of the applicant; to any officer,  
630 director, trustee, or employee of any charitable organization or  
631 sponsor under contract to the applicant; or to any supplier or  
632 vendor providing goods or services to any charitable  
633 organization or sponsor under contract to the applicant.

634 (f) A statement as to whether the applicant or any of its  
635 directors, officers, trustees, persons with a controlling  
636 interest in the applicant, or employees or agents involved in  
637 solicitation have, within the last 10 years, regardless of  
638 adjudication, been convicted of, or found guilty of, or pled  
639 guilty or nolo contendere to, or have been incarcerated within  
640 the last 10 years as a result of having previously been  
641 convicted of, or found guilty of, or pled guilty or nolo  
642 contendere to, any felony and, if so, the name of such person,  
643 the nature of the offense, the date of the offense, the court  
644 having jurisdiction in the case, the date of conviction or other

645 disposition, and the disposition of the offense.

646 (g) A statement as to whether the applicant or any of its  
647 directors, officers, trustees, persons with a controlling  
648 interest in the applicant, or employees or agents involved in  
649 solicitation have, regardless of adjudication, been convicted  
650 of, or found guilty of, or pled guilty or nolo contendere to, or  
651 have been incarcerated within the last 10 years as a result of  
652 having previously been convicted of, or found guilty of, or pled  
653 guilty or nolo contendere to, a crime within the last 10 years  
654 involving fraud, theft, larceny, embezzlement, fraudulent  
655 conversion, or misappropriation of property, or any crime  
656 arising from the conduct of a solicitation for a charitable  
657 organization or sponsor and, if so, the name of such person, the  
658 nature of the offense, the date of the offense, the court having  
659 jurisdiction in the case, the date of conviction or other  
660 disposition, and the disposition of the offense.

661 (h) A statement as to whether the applicant or any of its  
662 directors, officers, trustees, persons with a controlling  
663 interest in the applicant, or employees or agents involved in  
664 solicitation have been enjoined from violating any law relating  
665 to a charitable solicitation and, if so, the name of such  
666 person, the date of the injunction, and the court issuing the  
667 injunction.

668 (i) The names of all persons in charge of any solicitation  
669 activity.

670 (3) The application for registration must be accompanied  
671 by a fee of \$300. A professional solicitor that is a partnership  
672 or corporation may register for and pay a single fee on behalf



673 of all of its partners, members, officers, directors, agents,  
674 and employees. In that case, the names and street addresses of  
675 all the officers, employees, and agents of the professional  
676 solicitor and all other persons with whom the professional  
677 solicitor has contracted to work under its direction, including  
678 solicitors, must be listed in the application or furnished to  
679 the department within 5 days after the date of employment or  
680 contractual arrangement. Each registration is valid for 1 year  
681 ~~or a part of 1 year and expires on March 31 of each year.~~ The  
682 registration may be renewed ~~on or before March 31 of each year~~  
683 for an additional 1-year period upon application to the  
684 department and payment of the registration fee.

685 (5) The department must examine each registration  
686 statement and supporting documents filed by a professional  
687 solicitor. If the department determines that the registration  
688 requirements are not satisfied, the department must notify the  
689 professional solicitor within 15 ~~10~~ working days after its  
690 receipt of the registration statement; otherwise the  
691 registration statement is approved. Within 7 working days after  
692 receipt of a notification that the registration requirements are  
693 not satisfied, the applicant may request a hearing. The hearing  
694 must be held within 7 working days after receipt of the request,  
695 and any recommended order, if one is issued, must be rendered  
696 within 3 working days after the hearing. The final order must  
697 then be issued within 2 working days after the recommended  
698 order. If there is no recommended order, the final order must be  
699 issued within 5 working days after the hearing. The proceedings  
700 must be conducted in accordance with chapter 120, except that

701 the time limits and provisions set forth in this subsection  
702 prevail to the extent of any conflict.

703 (8) Within 45 ~~90~~ days after a solicitation campaign has  
704 been completed and within 45 days after ~~on~~ the anniversary of  
705 the commencement of a solicitation campaign lasting more than 1  
706 year, the professional solicitor must provide to the charitable  
707 organization or sponsor and file with the department a financial  
708 report of the campaign, including the gross revenue received and  
709 an itemization of all expenses incurred. The report must be  
710 completed on a form prescribed by the department and signed by  
711 an authorized official of the professional solicitor who shall  
712 certify ~~under oath~~ that the report is true and correct.

713 Section 12. Subsection (6) of section 496.411, Florida  
714 Statutes, is amended to read:

715 496.411 Disclosure requirements and duties of charitable  
716 organizations and sponsors.—

717 (6) Each charitable organization or sponsor that is  
718 required to register under s. 496.405 shall conspicuously  
719 display the organization's or sponsor's registration number  
720 issued by the department under this chapter following  
721 ~~information~~ on every printed solicitation, written confirmation,  
722 receipt, or reminder of a contribution.

723 ~~(a) The organization's or sponsor's registration number~~  
724 ~~issued by the department under this chapter.~~

725 ~~(b) The percentage, if any, of each contribution that is~~  
726 ~~retained by any professional solicitor that has contracted with~~  
727 ~~the organization or sponsor.~~

728 ~~(c) The percentage of each contribution that is received~~

729 | ~~by the organization or sponsor.~~

730

731 | If the solicitation consists of more than a single item, the  
732 | statement shall be displayed prominently in the solicitation  
733 | materials.

734 | Section 13. Subsection (2) of section 496.415, Florida  
735 | Statutes, is amended to read:

736 | 496.415 Prohibited acts.—It is unlawful for any person in  
737 | connection with the planning, conduct, or execution of any  
738 | solicitation or charitable or sponsor sales promotion to:

739 | (2) Knowingly submit file false, ~~or~~ misleading, or  
740 | inaccurate information in a any document that is required to be  
741 | filed with the department, provided to the public, or offered in  
742 | response to a any request or investigation by the department,  
743 | the Department of Legal Affairs, or the state attorney.

744 | Section 14. Subsection (8) of section 496.419, Florida  
745 | Statutes, is amended, and subsection (10) is added to that  
746 | section, to read:

747 | 496.419 Powers of the department.—

748 | (8) The department shall report any substantiated criminal  
749 | violation of ss. 496.401-496.424 or s. 496.426 to the proper  
750 | prosecuting authority for prompt prosecution.

751 | (10) A finding of a violation of s. 496.415(3), (5), (6),  
752 | (10), (12), (13), or (14) constitutes an immediate threat to the  
753 | public health, safety, and welfare and is sufficient grounds for  
754 | the department to issue an immediate order to cease and desist  
755 | all solicitation activities. The order shall act as an immediate  
756 | final order under s. 120.569(2)(n) and shall remain in effect

757 until the violation has been remedied pursuant to this chapter.

758 Section 15. Subsections (1), (2), and (4) of section  
759 501.016, Florida Statutes, are amended to read:

760 501.016 Health studios; security requirements.—Each health  
761 studio that sells contracts for health studio services shall  
762 meet the following requirements:

763 (1) Each health studio shall maintain for each separate  
764 business location a bond issued by a surety company admitted to  
765 do business in this state. The principal sum of the bond shall  
766 be \$25,000 ~~\$50,000~~, and the bond, when required, shall be  
767 obtained before a business tax receipt may be issued under  
768 chapter 205. Upon issuance of a business tax receipt, the  
769 licensing authority shall immediately notify the department of  
770 such issuance in a manner established by the department by rule.  
771 The bond shall be in favor of the state for the benefit of any  
772 person injured as a result of a violation of ss. 501.012-  
773 501.019. The aggregate liability of the surety to all persons  
774 for all breaches of the conditions of the bonds provided herein  
775 shall in no event exceed the amount of the bond. The original  
776 surety bond required by this section shall be filed with the  
777 department.

778 (2) In lieu of maintaining the bond required in subsection  
779 (1), the health studio may furnish to the department:

780 (a) An irrevocable letter of credit from any foreign or  
781 domestic bank in the amount of \$25,000 ~~\$50,000~~; or

782 (b) A guaranty agreement that ~~which~~ is secured by a  
783 certificate of deposit in the amount of \$25,000 ~~\$50,000~~.

784

785 The original letter of credit or certificate of deposit  
 786 submitted in lieu of the bond shall be filed with the  
 787 department. The department shall decide whether the security  
 788 furnished in lieu of bond by the health studio is in compliance  
 789 with the requirements of this section.

790 (4) If the health studio furnishes the department with  
 791 evidence satisfactory to the department that the aggregate  
 792 dollar amount of all current outstanding contracts of the health  
 793 studio is less than \$5,000, the department may, at its  
 794 discretion, reduce the principal amount of the surety bond or  
 795 other sufficient financial responsibility required in  
 796 subsections (1) and (2) to a sum of not less than \$10,000.  
 797 However, at any time the aggregate dollar amount of such  
 798 contracts exceeds \$5,000, the health studio shall so notify the  
 799 department and shall thereupon provide the bond or other  
 800 documentation as required in subsections (1) and (2). Health  
 801 studios whose bonds have been reduced must provide the  
 802 department with an annually updated list of members. Failure to  
 803 file an annual report will result in the department raising the  
 804 security requirement to \$25,000 ~~\$50,000~~.

805 Section 16. Subsections (5) through (10) of section  
 806 501.059, Florida Statutes, are renumbered as subsections (6)  
 807 through (11), respectively, and a new subsection (5) is added to  
 808 that section to read:

809 501.059 Telephone solicitation.—

810 (5) A telephone solicitor may not initiate an outbound  
 811 telephone call to a consumer who has previously communicated to  
 812 the telephone solicitor that he or she does not wish to receive

813 | an outbound telephone call:

814 |       (a) Made by or on behalf of the seller whose goods or  
 815 | services are being offered; or

816 |       (b) Made on behalf of a charitable organization for which  
 817 | a charitable contribution is being solicited.

818 |       Section 17. Subsections (1) and (2) of section 501.603,  
 819 | Florida Statutes, are amended to read:

820 |       501.603 Definitions.—As used in this part, unless the  
 821 | context otherwise requires, the term:

822 |       (1) "Commercial telephone solicitation" means:

823 |       (a) An unsolicited telephone call to a person initiated by  
 824 | a commercial telephone seller or salesperson, or an automated  
 825 | dialing machine used in accordance with the provisions of s.  
 826 | 501.059(8) ~~501.059(7)~~ for the purpose of inducing the person to  
 827 | purchase or invest in consumer goods or services;

828 |       (b) Other communication with a person where:

- 829 |       1. A gift, award, or prize is offered; or  
 830 |       2. A telephone call response is invited; and  
 831 |       3. The salesperson intends to complete a sale or enter  
 832 | into an agreement to purchase or invest in consumer goods or  
 833 | services during the course of the telephone call; or

834 |       (c) Other communication with a person which represents a  
 835 | price, quality, or availability of consumer goods or services  
 836 | and which invites a response by telephone or which is followed  
 837 | by a call to the person by a salesperson.

838 |

839 | For purposes of this section, "other communication" means a  
 840 | written or oral notification or advertisement transmitted

841 through any means. Also, for purposes of this section, "invites  
842 a response by telephone" does not mean the mere listing or  
843 including of a telephone number in a notification or  
844 advertisement.

845 (2) "Commercial telephone seller" means a any person who  
846 engages in commercial telephone solicitation on his or her own  
847 behalf or through salespersons, except that a commercial  
848 telephone seller does not include a person or entity operating  
849 under a valid affidavit of exemption filed with the department  
850 according to s. 501.608(1)(b) or any of the persons or entities  
851 exempted from this part by s. 501.604. A commercial telephone  
852 seller does not include a salesperson as defined in subsection  
853 (10). A commercial telephone seller includes, but is not limited  
854 to, owners, operators, officers, directors, partners, or other  
855 individuals engaged in the management activities of a business  
856 entity pursuant to this part.

857 Section 18. Subsections (4), (7), (10), (14), and (24) of  
858 section 501.604, Florida Statutes, are amended to read:

859 501.604 Exemptions.—The provisions of this part, except  
860 ss. 501.608 and 501.616(6) and (7), do not apply to:

861 (4) A Any licensed securities, commodities, or investment  
862 broker, dealer, or investment adviser, when soliciting within  
863 the scope of his or her license, or a any licensed associated  
864 person of a securities, commodities, or investment broker,  
865 dealer, or investment adviser, when soliciting within the scope  
866 of his or her license. As used in this section, "licensed  
867 securities, commodities, or investment broker, dealer, or  
868 investment adviser" means a person subject to license or

869 registration as such by the Securities and Exchange Commission,  
 870 by the Financial Industry Regulatory Authority ~~National~~  
 871 ~~Association of Securities Dealers~~ or other self-regulatory  
 872 organization as defined by the Securities Exchange Act of 1934,  
 873 15 U.S.C. s. 781, or by an official or agency of this state or  
 874 of any state of the United States. As used in this section,  
 875 "licensed associated person of a securities, commodities, or  
 876 investment broker, dealer, or investment adviser" means an ~~any~~  
 877 associated person registered or licensed by the Financial  
 878 Industry Regulatory Authority ~~National Association of Securities~~  
 879 ~~Dealers~~ or other self-regulatory organization as defined by the  
 880 Securities Exchange Act of 1934, 15 U.S.C. s. 781, or by an  
 881 official or agency of this state or of any state of the United  
 882 States.

883 (7) A ~~Any~~ supervised financial institution or parent,  
 884 subsidiary, or affiliate thereof operating within the scope of  
 885 supervised activity. As used in this section, "supervised  
 886 financial institution" means a ~~any~~ commercial bank, trust  
 887 company, savings and loan association, mutual savings bank,  
 888 credit union, industrial loan company, consumer finance lender,  
 889 commercial finance lender, or insurer, provided that the  
 890 institution is subject to supervision by an official or agency  
 891 of this state, of any state, or of the United States. For the  
 892 purposes of this exemption, "affiliate" means a person who  
 893 directly, or indirectly through one or more intermediaries,  
 894 controls or is controlled by, or is under common control with, a  
 895 supervised financial institution.

896 (10) A business-to-business sale where:



897 (a) The commercial telephone seller has been lawfully  
 898 operating continuously for at least 3 years under the same  
 899 business name and has at least 50 percent of its dollar volume  
 900 consisting of repeat sales to existing businesses;

901 (b) The purchaser business intends to resell or offer for  
 902 purposes of advertisement or as a promotional item the property  
 903 or goods purchased; or

904 (c) The purchaser business intends to use the property or  
 905 goods purchased in a recycling, reuse, remanufacturing, or  
 906 manufacturing process.

907 (14) A telephone company subject to ~~the provisions of~~  
 908 chapter 364, or affiliate thereof or its agents, or a  
 909 telecommunications business that ~~which~~ is regulated by the  
 910 Florida Public Service Commission, or a Federal Communications  
 911 Commission licensed cellular telephone company or other bona  
 912 fide radio telecommunication services provider. For the purposes  
 913 of this exemption, "affiliate" means a person who directly, or  
 914 indirectly through one or more intermediaries, controls or is  
 915 controlled by, or is under common control with, a telephone  
 916 company subject to ~~the provisions of~~ chapter 364.

917 (24) Any person who ~~which~~ has been lawfully providing  
 918 telemarketing sales services continuously for at least 5 years  
 919 under the same ownership and control and who ~~which~~ derives 75  
 920 percent of its gross telemarketing sales revenues from contracts  
 921 with persons exempted in this section.

922 Section 19. Subsection (1) of section 501.607, Florida  
 923 Statutes, is amended to read:

924 501.607 Licensure of salespersons.—

925 (1) An applicant for a license as a salesperson must  
926 submit to the department, in such form as it prescribes, a  
927 written application for a license. The application must set  
928 forth the following information:

929 (a) The true name, date of birth, driver license number or  
930 other valid form of identification, and home address of the  
931 applicant.

932 ~~(b) Each business or occupation engaged in by the~~  
933 ~~applicant during the 3 years immediately preceding the date of~~  
934 ~~the application, and the location thereof.~~

935 (b)~~(e)~~ The previous experience of the applicant as a  
936 commercial telephone seller or salesperson.

937 (c)~~(d)~~ Whether the applicant, regardless of adjudication,  
938 has previously been arrested for, convicted or found guilty of,  
939 has entered a plea of guilty or a plea of nolo contendere to, or  
940 is under indictment or information for, a felony and, if so, the  
941 nature of the felony.

942 (d)~~(e)~~ Whether the applicant, regardless of adjudication,  
943 has previously been convicted or found guilty of, has entered a  
944 plea of guilty or a plea of nolo contendere to, or is under  
945 indictment or information for, racketeering or any offense  
946 involving fraud, theft, embezzlement, fraudulent conversion, or  
947 misappropriation of property.

948 (e)~~(f)~~ Whether there has ever been a judicial or  
949 administrative finding that the applicant has previously been  
950 convicted of acting as a salesperson without a license, or  
951 whether such a license has previously been refused, revoked, or  
952 suspended in any jurisdiction.

953        (f)~~(g)~~ Whether the applicant has worked for, or been  
 954 affiliated with, a company that is involved in pending  
 955 litigation or has had entered against it an injunction, a  
 956 temporary restraining order, or a final judgment or order,  
 957 including a stipulated judgment or order, an assurance of  
 958 voluntary compliance, or any similar document, in any civil or  
 959 administrative action involving racketeering, fraud, theft,  
 960 embezzlement, fraudulent conversion, or misappropriation of  
 961 property or the use of any untrue, deceptive, or misleading  
 962 representation or the use of any unfair, unlawful, or deceptive  
 963 trade practice.

964        (g)~~(h)~~ Whether the applicant is involved in pending  
 965 litigation or has had entered against her or him an injunction,  
 966 a temporary restraining order, or a final judgment or order,  
 967 including a stipulated judgment or order, an assurance of  
 968 voluntary compliance, or any similar document, in any civil or  
 969 administrative action involving racketeering, fraud, theft,  
 970 embezzlement, fraudulent conversion, or misappropriation of  
 971 property or the use of any untrue, deceptive, or misleading  
 972 representation or the use of any unfair, unlawful, or deceptive  
 973 trade practice.

974        Section 20. Paragraph (b) of subsection (1) and  
 975 subsections (2) and (3) of section 501.608, Florida Statutes,  
 976 are amended to read:

977        501.608 License or affidavit of exemption; occupational  
 978 license.—

979        (1)

980        (b) Any commercial telephone seller claiming to be exempt

981 from the act under s. 501.604(2), (3), (5), (6), (9), (10),  
 982 (11), (12), (17), (21), (22), (24), or (26) must file with the  
 983 department a notarized affidavit of exemption. The affidavit of  
 984 exemption must be on forms prescribed by the department and must  
 985 require the name of the commercial telephone seller, the name of  
 986 the business, and the business address. At the request of the  
 987 department, the commercial telephone seller shall provide sales  
 988 scripts, contracts, and other documentation as needed to verify  
 989 the validity of the exemption before the affidavit of exemption  
 990 is accepted for filing. A ~~Any~~ commercial telephone seller  
 991 maintaining more than one business may file a single notarized  
 992 affidavit of exemption that clearly indicates the location of  
 993 each place of business. If a change of ownership occurs, the  
 994 commercial telephone seller must notify the department.

995 (2) Each licensee or person operating under a valid and  
 996 properly filed ~~claiming an~~ exemption shall prominently display  
 997 his or her license or a copy of his or her receipt of filing of  
 998 the affidavit of exemption at each location where he or she does  
 999 business ~~and. Each licensee or person claiming an exemption~~  
 1000 shall make the license or the receipt of filing ~~copy~~ of the  
 1001 affidavit of exemption available for inspection by any  
 1002 governmental agency upon request.

1003 (3) Failure to obtain or display a license or a receipt of  
 1004 filing of an ~~copy of the~~ affidavit of exemption is sufficient  
 1005 grounds for the department to issue an immediate cease and  
 1006 desist order, which shall act as an immediate final order under  
 1007 s. 120.569(2)(n). The order shall ~~may~~ remain in effect until the  
 1008 commercial telephone seller or a person claiming to be exempt

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1009 shows the authorities that he or she is properly licensed or  
1010 exempt. The department may order the business to cease  
1011 operations and shall order the phones to be shut off. Failure of  
1012 a salesperson to display a license or a receipt of filing of an  
1013 affidavit of exemption may result in the salesperson being  
1014 summarily ordered by the department to leave the office until he  
1015 or she can produce a license or a receipt of filing of an  
1016 affidavit of exemption for the department.

1017 Section 21. Subsection (3) of section 501.611, Florida  
1018 Statutes, is amended to read:

1019 501.611 Security.—

1020 (3) The bond shall be posted with the department and shall  
1021 remain in force throughout the period of licensure with the  
1022 department.

1023 Section 22. Subsection (12) of section 501.615, Florida  
1024 Statutes, is amended to read:

1025 501.615 Written contract; cancellation; refund.—

1026 (12) Exempt from the requirements of subsections (1)-(5)  
1027 is any sale in which the consumer is given a right to a full  
1028 refund for the return of undamaged and unused goods or a  
1029 cancellation of services notice is given to the seller, within 7  
1030 days after receipt of the goods or services by the consumer, and  
1031 the seller shall process the refund within 30 days after receipt  
1032 of the returned merchandise by the consumer. A commercial  
1033 telephone seller or salesperson engaged in activity regulated by  
1034 chapter 721 must comply with s. 721.205.

1035 Section 23. Subsection (1) of section 501.617, Florida  
1036 Statutes, is amended to read:

1037 501.617 Investigative powers of enforcing authority.—  
 1038 (1) If, by her or his own inquiries or as a result of  
 1039 complaints, the enforcing authority has reason to believe that a  
 1040 person has engaged in, or is engaging in, an act or practice  
 1041 that violates ~~the provisions of this part~~, she or he may  
 1042 administer oaths and affirmations, subpoena witnesses or matter,  
 1043 conduct regulatory inspections, and collect evidence. Within 10  
 1044 days after the service of a subpoena or at any time before the  
 1045 return date specified therein, whichever is longer, the party  
 1046 served may file in the circuit court in the county in which she  
 1047 or he resides or in which she or he transacts business and serve  
 1048 upon the enforcing authority a petition for an order modifying  
 1049 or setting aside the subpoena. The petitioner may raise any  
 1050 objection or privilege that ~~which~~ would be available under this  
 1051 part or upon service of such subpoena in a civil action. The  
 1052 subpoena shall inform the party served of her or his rights  
 1053 under this subsection.

1054 Section 24. Subsection (9) of section 507.03, Florida  
 1055 Statutes, is amended, and subsection (10) is added to that  
 1056 section, to read:

1057 507.03 Registration.—

1058 (9) Each mover ~~and moving broker~~ shall provide evidence of  
 1059 the current and valid insurance or alternative coverages  
 1060 required under s. 507.04.

1061 (10) At the request of the department, each moving broker  
 1062 shall provide a complete list of the movers that the moving  
 1063 broker has contracted or is affiliated with, advertises on  
 1064 behalf of, arranges moves for, or refers shippers to, including

1065 each mover's complete name, address, telephone number, and e-  
 1066 mail address and the name of each mover's owner or other  
 1067 principal.

1068 Section 25. Paragraph (b) of subsection (1) of section  
 1069 507.04, Florida Statutes, is amended to read:

1070 507.04 Required insurance coverages; liability  
 1071 limitations; valuation coverage.—

1072 (1) LIABILITY INSURANCE.—

1073 (b) A mover that operates two or fewer vehicles, in lieu  
 1074 of maintaining the liability insurance coverage required under  
 1075 paragraph (a), ~~may, and each moving broker must,~~ maintain one of  
 1076 the following alternative coverages:

1077 1. A performance bond in the amount of \$25,000, for which  
 1078 the surety of the bond must be a surety company authorized to  
 1079 conduct business in this state; or

1080 2. A certificate of deposit in a Florida banking  
 1081 institution in the amount of \$25,000.

1082  
 1083 The original bond or certificate of deposit must be filed with  
 1084 the department and must designate the department as the sole  
 1085 beneficiary. The department must use the bond or certificate of  
 1086 deposit exclusively for the payment of claims to consumers who  
 1087 are injured by the fraud, misrepresentation, breach of contract,  
 1088 misfeasance, malfeasance, or financial failure of the mover ~~or~~  
 1089 ~~moving broker~~ or by a violation of this chapter by the mover ~~or~~  
 1090 ~~broker~~. Liability for these injuries may be determined in an  
 1091 administrative proceeding of the department or through a civil  
 1092 action in a court of competent jurisdiction. However, claims

1093 | against the bond or certificate of deposit must only be paid, in  
 1094 | amounts not to exceed the determined liability for these  
 1095 | injuries, by order of the department in an administrative  
 1096 | proceeding. The bond or certificate of deposit is subject to  
 1097 | successive claims, but the aggregate amount of these claims may  
 1098 | not exceed the amount of the bond or certificate of deposit.

1099 | Section 26. Section 507.07, Florida Statutes, is amended  
 1100 | to read:

1101 | 507.07 Violations.—It is a violation of this chapter ~~to~~:

1102 | (1) To conduct business as a mover or moving broker, or  
 1103 | advertise to engage in the business of moving or offering to  
 1104 | move, without being registered with the department.

1105 | (2) To knowingly make any false statement, representation,  
 1106 | or certification in any application, document, or record  
 1107 | required to be submitted or retained under this chapter.

1108 | (3) To misrepresent or deceptively represent:

1109 | (a) The contract for services, bill of lading, or  
 1110 | inventory of household goods for the move estimated.

1111 | (b) The timeframe or schedule for delivery or storage of  
 1112 | household goods estimated.

1113 | (c) The price, size, nature, extent, qualities, or  
 1114 | characteristics of accessorial or moving services offered.

1115 | (d) The nature or extent of other goods, services, or  
 1116 | amenities offered.

1117 | (e) A shipper's rights, privileges, or benefits.

1118 | (4) To fail to honor and comply with all provisions of the  
 1119 | contract for services or bill of lading regarding the  
 1120 | purchaser's rights, benefits, and privileges thereunder.



1121 (5) To withhold delivery of household goods or in any way  
 1122 hold goods in storage against the expressed wishes of the  
 1123 shipper if payment has been made as delineated in the estimate  
 1124 or contract for services.

1125 (6) (a) To include in any contract any provision purporting  
 1126 to waive or limit any right or benefit provided to shippers  
 1127 under this chapter.

1128 (b) To seek or solicit a waiver or acceptance of  
 1129 limitation from a shipper concerning rights or benefits provided  
 1130 under this chapter.

1131 (c) To use a local mailing address, registration facility,  
 1132 drop box, or answering service in the promotion, advertising,  
 1133 solicitation, or sale of contracts, unless the mover's, and, if  
 1134 applicable, the moving broker's, fixed business address is  
 1135 clearly disclosed during any telephone solicitation and is  
 1136 prominently and conspicuously disclosed on all solicitation  
 1137 materials and on the contract.

1138 (d) To commit any other act of fraud, misrepresentation,  
 1139 or failure to disclose a material fact.

1140 (e) To refuse or fail, or for any of the mover's or  
 1141 broker's principal officers to refuse or fail, after notice, to  
 1142 produce any document or record or disclose any information  
 1143 required to be produced or disclosed.

1144 (f) To knowingly make a false statement in response to any  
 1145 request or investigation by the department, the Department of  
 1146 Legal Affairs, or the state attorney.

1147 (7) For a moving broker to enter into a contract or  
 1148 agreement for moving, loading, shipping, transporting, or

1149 unloading services with a mover who is not registered with the  
 1150 department pursuant to this chapter.

1151 (8) For a mover to enter into a contract or agreement for  
 1152 moving, loading, shipping, transporting, or unloading services  
 1153 with a moving broker who is not registered with the department  
 1154 pursuant to this chapter.

1155 Section 27. Paragraph (c) of subsection (1) of section  
 1156 525.01, Florida Statutes, is amended to read:

1157 525.01 Gasoline and oil to be inspected.—

1158 (1) For the purpose of this chapter:

1159 (c) "Alternative fuel" means:

- 1160 1. Methanol, denatured ethanol, or other alcohols;
- 1161 2. Mixtures of gasoline or other fuels with methanol,  
 1162 denatured ethanol, or other alcohols ~~containing 85 percent or~~  
 1163 ~~more by volume of methanol, denatured ethanol, or other alcohols~~  
 1164 ~~with gasoline or other fuels, or such other percentage, but not~~  
 1165 ~~less than 70 percent, as determined by the department by rule,~~  
 1166 ~~to provide for requirements relating to cold start, safety, or~~  
 1167 ~~vehicle functions;~~
- 1168 3. Hydrogen;
- 1169 4. Coal-derived liquid fuels; and
- 1170 5. Fuels, other than alcohol, derived from biological  
 1171 materials.

1172 Section 28. Subsections (2), (3), and (4) of section  
 1173 525.09, Florida Statutes, are repealed.

1174 Section 29. Section 525.10, Florida Statutes, is amended  
 1175 to read:

1176 525.10 ~~Moneys to be paid into State Treasury;~~ Payment of

1177 ~~expenses. All moneys payable under this chapter shall be payable~~  
1178 ~~to the department and shall be paid by it into the State~~  
1179 ~~Treasury monthly to be deposited into the General Inspection~~  
1180 ~~Trust Fund.~~ All expenses incurred in the enforcement of this  
1181 chapter and other inspection laws of this state for which fees  
1182 are collected, including acquiring equipment and other property,  
1183 shall be paid from the General Inspection Trust Fund. No money  
1184 shall be paid to any inspector or employee created under this  
1185 chapter except from the funds collected from the administration  
1186 of this chapter.

1187 Section 30. Subsections (3) and (4) of section 525.16,  
1188 Florida Statutes, are renumbered as subsections (4) and (5),  
1189 respectively, and a new subsection (3) is added to that section  
1190 to read:

1191 525.16 Administrative fine; penalties; prosecution of  
1192 cases by state attorney.—

1193 (3) An entity that sells, offers for sale, distributes, or  
1194 offers for distribution petroleum or alternative fuels shall  
1195 ensure that its activities result in petroleum fuels that meet  
1196 all requirements and standards adopted under s. 525.14. A  
1197 terminal supplier, wholesaler, or blender licensed under chapter  
1198 206 is not liable for injuries or damages resulting from the  
1199 subsequent blending of petroleum or alternative fuels occurring  
1200 after the transfer of ownership of such fuels from the terminal  
1201 supplier, wholesaler, or blender if the petroleum or alternative  
1202 fuels used to make the petroleum fuel at issue met the  
1203 requirements and standards adopted under s. 525.14 while under  
1204 ownership of the terminal supplier, wholesaler, or blender.

1205 Section 31. Subsection (7) of section 526.141, Florida  
1206 Statutes, is renumbered as subsection (8), and a new subsection  
1207 (7) is added to that section to read:

1208 526.141 Self-service gasoline stations; attendants;  
1209 regulations.—

1210 (7) A refiner, terminal supplier, wholesaler, or retailer  
1211 is not liable for damages resulting from the use of incompatible  
1212 motor fuel dispensed at a retail site if:

1213 (a) The incompatible fuel meets the requirements and  
1214 standards adopted under s. 525.14;

1215 (b) The incompatible fuel was selected by the purchaser;  
1216 and

1217 (c) The retail dispenser that dispensed the incompatible  
1218 fuel was properly labeled according to the labeling requirements  
1219 adopted under s. 525.14.

1220 Section 32. Subsection (20) is added to section 527.01,  
1221 Florida Statutes, to read:

1222 527.01 Definitions.—As used in this chapter:

1223 (20) "License year" means the period from September 1  
1224 through the following August 31, or April 1 through the  
1225 following March 31, depending upon the type of license.

1226 Section 33. Subsections (1) and (3) and paragraphs (a) and  
1227 (c) of subsection (5) of section 527.0201, Florida Statutes, are  
1228 amended to read:

1229 527.0201 Qualifiers; master qualifiers; examinations.—

1230 (1) In addition to the requirements of s. 527.02, any  
1231 person applying for a license to engage in the activities of a  
1232 pipeline system operator, category I liquefied petroleum gas

1233 dealer, category II liquefied petroleum gas dispenser, category  
1234 IV liquefied petroleum gas dispenser and recreational vehicle  
1235 servicer, category V liquefied petroleum gases dealer for  
1236 industrial uses only, LP gas installer, specialty installer,  
1237 requalifier ~~requalification~~ of cylinders, or fabricator,  
1238 repairer, and tester of vehicles and cargo tanks must prove  
1239 competency by passing a written examination administered by the  
1240 department or its agent with a grade of 75 percent or above in  
1241 each area tested. Each applicant for examination shall submit a  
1242 \$20 nonrefundable fee. The department shall by rule specify the  
1243 general areas of competency to be covered by each examination  
1244 and the relative weight to be assigned in grading each area  
1245 tested.

1246 (3) Qualifier cards issued to category I liquefied  
1247 petroleum gas dealers and liquefied petroleum gas installers  
1248 shall expire 3 years after the date of issuance. All category I  
1249 liquefied petroleum gas dealer qualifiers and liquefied  
1250 petroleum gas installer qualifiers holding a valid qualifier  
1251 card upon the effective date of this act shall retain their  
1252 qualifier status until July 1, 2003, and may sit for the master  
1253 qualifier examination at any time during that time period. All  
1254 such category I liquefied petroleum gas dealer qualifiers and  
1255 liquefied petroleum gas installer qualifiers may renew their  
1256 qualification on or before July 1, 2003, upon application to the  
1257 department, payment of a \$20 renewal fee, and documentation of  
1258 the completion of a minimum of 16 ~~12~~ hours approved continuing  
1259 education courses, as defined by department rule, during the  
1260 previous 3-year period. Applications for renewal must be made 30

1261 calendar days before ~~prior to~~ expiration. Persons failing to  
1262 renew before ~~prior to~~ the expiration date must reapply and take  
1263 a qualifier competency examination in order to reestablish  
1264 category I liquefied petroleum gas dealer qualifier and  
1265 liquefied petroleum gas installer qualifier status. If a  
1266 category I liquefied petroleum gas qualifier or liquefied  
1267 petroleum gas installer qualifier becomes a master qualifier at  
1268 any time during the effective date of the qualifier card, the  
1269 card shall remain in effect until expiration of the master  
1270 qualifier certification.

1271 (5) In addition to all other licensing requirements, each  
1272 category I liquefied petroleum gas dealer and liquefied  
1273 petroleum gas installer must, at the time of application for  
1274 licensure, identify to the department one master qualifier who  
1275 is a full-time employee at the licensed location. This person  
1276 shall be a manager, owner, or otherwise primarily responsible  
1277 for overseeing the operations of the licensed location and must  
1278 provide documentation to the department as provided by rule. The  
1279 master qualifier requirement shall be in addition to the  
1280 requirements of subsection (1).

1281 (a) In order to apply for certification as a master  
1282 qualifier, each applicant must be a category I liquefied  
1283 petroleum gas dealer qualifier or liquefied petroleum gas  
1284 installer qualifier, must be employed by a licensed category I  
1285 liquefied petroleum gas dealer, liquefied petroleum gas  
1286 installer, or applicant for such license, must provide  
1287 documentation of a minimum of 1 year's work experience in the  
1288 gas industry, and must pass a master qualifier competency

1289 examination. Master qualifier examinations shall be based on  
 1290 Florida's laws, rules, and adopted codes governing liquefied  
 1291 petroleum gas safety, general industry safety standards, and  
 1292 administrative procedures. The applicant ~~examination~~ must be  
 1293 successfully pass the examination ~~completed by the applicant~~  
 1294 with a grade of 75 percent or above ~~more~~. Each applicant for  
 1295 master qualifier status must ~~shall~~ submit to the department a  
 1296 nonrefundable \$30 examination fee before ~~prior to~~ the  
 1297 examination.

1298 (c) Master qualifier status shall expire 3 years after the  
 1299 date of issuance of the certificate and may be renewed by  
 1300 submission to the department of documentation of completion of  
 1301 at least 16 ~~12~~ hours of approved continuing education courses  
 1302 during the 3-year period; proof of employment with a licensed  
 1303 category I liquefied petroleum gas dealer, liquefied petroleum  
 1304 gas installer, or applicant; and a \$30 certificate renewal fee.  
 1305 The department shall define, by rule, approved courses of  
 1306 continuing education.

1307 Section 34. Section 527.03, Florida Statutes, is amended  
 1308 to read:

1309 527.03 Annual renewal of license.—All licenses required  
 1310 under this chapter shall be renewed annually subject to the  
 1311 license fees prescribed in s. 527.02. All licenses, except  
 1312 Category III Liquefied Petroleum Gas Cylinder Exchange Unit  
 1313 Operator licenses and Dealer in Appliances and Equipment for Use  
 1314 of Liquefied Petroleum Gas licenses, shall be renewed for the  
 1315 period beginning September 1 and shall expire on the following  
 1316 August 31 unless sooner suspended, revoked, or otherwise

1317 | terminated. Category III Liquefied Petroleum Gas Cylinder  
 1318 | Exchange Unit Operator licenses and Dealer in Appliances and  
 1319 | Equipment for Use of Liquefied Petroleum Gas licenses shall be  
 1320 | renewed for the period beginning April 1 and shall expire on the  
 1321 | following March 31 unless sooner suspended, revoked, or  
 1322 | otherwise terminated. Any license allowed to expire ~~on August 31~~  
 1323 | shall become inoperative because of failure to renew. The fee  
 1324 | for restoration of a license is equal to the original license  
 1325 | fee and must be paid before the licensee may resume operations.

1326 | Section 35. Subsection (3) of section 531.415, Florida  
 1327 | Statutes, is amended to read:

1328 | 531.415 Fees.—

1329 | (3) Any ~~petroleum product taxed under s. 525.09 and any~~  
 1330 | petroleum equipment used to measure petroleum fuel, as defined  
 1331 | in s. 525.01, owned by a person licensed pursuant to chapter 206  
 1332 | is exempt from the fees established in this section.

1333 | Section 36. Subsection (3) of section 531.61, Florida  
 1334 | Statutes, is amended to read:

1335 | 531.61 Exemptions from permit requirement.—Commercial  
 1336 | weights or measures instruments or devices are exempt from the  
 1337 | permit requirements of ss. 531.60-531.66 if:

1338 | (3) The device is used exclusively for measuring aviation  
 1339 | fuel or petroleum products inspected ~~taxed~~ under chapter 525 s.  
 1340 | ~~525.09.~~

1341 | Section 37. Section 531.67, Florida Statutes, is created  
 1342 | to read:

1343 | 531.67 Expiration of sections.—Sections 531.60, 531.61,  
 1344 | 531.62, 531.63, 531.64, 531.65, and 531.66 shall expire July 1,



1345 2020.

1346 Section 38. Section 40 of chapter 2009-66, Laws of  
 1347 Florida, is repealed.

1348 Section 39. Paragraph (c) of subsection (5) of section  
 1349 539.001, Florida Statutes, is amended to read:

1350 539.001 The Florida Pawnbroking Act.—

1351 (5) APPLICATION FOR LICENSE.—

1352 (c) Each initial application for a license must be  
 1353 accompanied by a complete set of fingerprints taken by an  
 1354 authorized law enforcement officer or a fingerprinting service  
 1355 provider approved by the Department of Law Enforcement, \$300 for  
 1356 the first year's license fee, and the actual cost to the agency  
 1357 for fingerprint analysis for each person subject to the  
 1358 eligibility requirements. The agency shall submit the  
 1359 fingerprints to the Department of Law Enforcement for state  
 1360 processing, and the Department of Law Enforcement shall forward  
 1361 the fingerprints to the Federal Bureau of Investigation for a  
 1362 national criminal history check. These fees and costs are not  
 1363 refundable.

1364 Section 40. Paragraph (b) of subsection (1) of section  
 1365 559.802, Florida Statutes, is amended to read:

1366 559.802 Franchises; exemption.—

1367 (1) The sale of a franchise is exempt from this part if:

1368 (b) Before offering for sale or selling a franchise to be  
 1369 located in this state or to a resident of this state, the  
 1370 franchisor files a notice with the department, on a form adopted  
 1371 by the department, stating that the franchisor is in substantial  
 1372 compliance with the requirements of the Federal Trade Commission

1373 rule, and pays a fee in an amount set by the department, not  
1374 exceeding \$100.

1375 Section 41. Section 559.803, Florida Statutes, is amended  
1376 to read:

1377 559.803 Disclosure statement.—At least 3 working days  
1378 before ~~prior to~~ the time the purchaser signs a business  
1379 opportunity contract, or at least 3 working days before ~~prior to~~  
1380 the receipt of any consideration by the seller, whichever occurs  
1381 first, the seller must provide the prospective purchaser a  
1382 written document, the cover sheet of which is entitled in at  
1383 least 12-point boldfaced capital letters "DISCLOSURES REQUIRED  
1384 BY FLORIDA LAW." Under this title shall appear the following  
1385 statement in at least 10-point type: "The State of Florida has  
1386 not reviewed and does not approve, recommend, endorse, or  
1387 sponsor any business opportunity. The information contained in  
1388 this disclosure has not been verified by the state. If you have  
1389 any questions about this investment, see an attorney before you  
1390 sign a contract or agreement." Nothing except the title and  
1391 required statement shall appear on the cover sheet. Immediately  
1392 following the cover sheet, the seller must provide an index page  
1393 that briefly lists the contents of the disclosure document as  
1394 required in this section and any pages on which the prospective  
1395 purchaser can find each required disclosure. At the top of the  
1396 index page, the following statement must appear in at least 10-  
1397 point type: "The State of Florida requires sellers of business  
1398 opportunities to disclose certain information to prospective  
1399 purchasers. This index is provided to help you locate this  
1400 information." If the index contains other information not

1401 required by this section, the seller shall place a designation  
1402 beside each of the disclosures required by this section and  
1403 provide an explanation of the designation at the end of the  
1404 statement at the top of the index page. The disclosure document  
1405 shall contain the following information:

1406 (1) The name of the seller; whether the seller is doing  
1407 business as an individual, partnership, corporation, or other  
1408 business entity; the names under which the seller has done  
1409 business; and the name of any parent or affiliated company that  
1410 will engage in business transactions with the purchasers or who  
1411 takes responsibility for statements made by the seller.

1412 (2) The names, addresses, and titles of the seller's  
1413 officers, directors, trustees, general partners, general  
1414 managers, and principal executives and of any other persons  
1415 charged with the responsibility for the seller's business  
1416 activities relating to the sale of business opportunities.

1417 (3) The length of time the seller has:

1418 (a) Sold business opportunities; or

1419 (b) Sold business opportunities involving the products,  
1420 equipment, supplies, or services currently being offered to the  
1421 purchaser.

1422 (4) A full and detailed description of the actual services  
1423 that the business opportunity seller undertakes to perform for  
1424 the purchaser.

1425 (5) A copy of a current ~~(not older than 13 months)~~  
1426 financial statement of the seller that is no older than 13  
1427 months, updated to reflect material changes in the seller's  
1428 financial condition.

1429 (6) If training is promised by the seller, a complete  
1430 description of the training, the length of the training, and the  
1431 cost or incidental expenses of that training, including the  
1432 ~~which~~ cost or expense the purchaser will be required to incur.

1433 (7) If the seller promises services to be performed in  
1434 connection with the placement of the equipment, product, or  
1435 supplies at a location, the full nature of those services as  
1436 well as the nature of the agreements to be made with the owners  
1437 or managers of the location where the purchaser's equipment,  
1438 product, or supplies will be placed.

1439 (8) If the business opportunity seller is required to  
1440 secure a bond, guaranteed letter of credit, or certificate of  
1441 deposit pursuant to s. 559.807, either of the following  
1442 statements:

1443 (a) "As required by Florida law, the seller has secured a  
1444 bond issued by . . . ., a surety company authorized to do business  
1445 in this state. Before signing a contract to purchase this  
1446 business opportunity, you should confirm the bond's status with  
1447 the surety company."; or

1448 (b) "As required by Florida law, the seller has  
1449 established a guaranteed letter of credit or certificate of  
1450 deposit ... (number of account) ... with ... (name and address of  
1451 bank or savings institution) ... Before signing a contract to  
1452 purchase this business opportunity, you should confirm with the  
1453 bank or savings institution the current status of the guaranteed  
1454 letter of credit or certificate of deposit."

1455 (9) The following statement: "If the seller fails to  
1456 deliver the product, equipment, or supplies necessary to begin

1457 substantial operation of the business within 45 days of the  
1458 delivery date stated in your contract, you may notify the seller  
1459 in writing and cancel your contract."

1460 (10) If the seller makes any statement concerning sales or  
1461 earnings or a range of sales or earnings that may be made  
1462 through this business opportunity, a statement disclosing:

1463 (a) The total number of purchasers of business  
1464 opportunities involving the product, equipment, supplies, or  
1465 services being offered who have actually achieved sales of or  
1466 received earnings in the amount or range specified within 3  
1467 years prior to the date of the disclosure statement.

1468 (b) The total number of purchasers of business  
1469 opportunities involving the product, equipment, supplies, or  
1470 services being offered within 3 years before ~~prior to~~ the date  
1471 of the disclosure statement.

1472 (11) (a) The total number of persons who purchased the  
1473 business opportunity being offered by the seller within the past  
1474 3 years.

1475 (b) The names, addresses, and telephone numbers of the 10  
1476 persons who previously purchased the business opportunity from  
1477 the seller and who are geographically closest to the potential  
1478 purchaser.

1479 (12) A statement disclosing who, if any, of the persons  
1480 listed in subsections (1) and (2):

1481 (a) Has, at any time during the previous 10 fiscal years,  
1482 regardless of adjudication, been convicted of, or found guilty  
1483 of, or pled guilty or nolo contendere to, or has been  
1484 incarcerated within the last 10 years as a result of having

1485 | previously been convicted of, or found guilty of, or pled guilty  
1486 | or nolo contendere to, a felony or a crime involving fraud,  
1487 | theft, larceny, violation of any franchise or business  
1488 | opportunity law or unfair or deceptive practices law,  
1489 | embezzlement, fraudulent conversion, misappropriation of  
1490 | property, or restraint of trade.

1491 |       (b) Has, at any time during the previous 7 fiscal years,  
1492 | been held liable in a civil action resulting in a final judgment  
1493 | or has settled out of court any civil action or is a party to  
1494 | any civil action involving allegations of fraud (including  
1495 | violation of any franchise or business opportunity law or unfair  
1496 | or deceptive practices law), embezzlement, fraudulent  
1497 | conversion, misappropriation of property, or restraint of trade  
1498 | or any civil action which was brought by a present or former  
1499 | franchisee or franchisees and which involves or involved the  
1500 | franchise relationship. However, only material individual civil  
1501 | actions need be so listed pursuant to this paragraph, including  
1502 | any group of civil actions which, irrespective of the  
1503 | materiality of any single such action, in the aggregate is  
1504 | material.

1505 |       (c) Is subject to any currently effective state or federal  
1506 | agency or court injunctive or restrictive order, or has been  
1507 | subject to any administrative action in which an order by a  
1508 | governmental agency was rendered, or is a party to a proceeding  
1509 | currently pending in which such order is sought, relating to or  
1510 | affecting business opportunities activities or the business  
1511 | opportunity seller-purchaser relationship or involving fraud,  
1512 | ~~including violation of any franchise or business opportunity~~

1513 law or unfair or deceptive practices law), embezzlement,  
1514 fraudulent conversion, misappropriation of property, or  
1515 restraint of trade.

1516

1517 Such statement shall set forth the identity and location of the  
1518 court or agency; the date of conviction, judgment, or decision;  
1519 the penalty imposed; the damages assessed; the terms of  
1520 settlement or the terms of the order; and the date, nature, and  
1521 issuer of each such order or ruling. A business opportunity  
1522 seller may include a summary opinion of counsel as to any  
1523 pending litigation, but only if counsel's consent to the use of  
1524 such opinion is included in the disclosure statement.

1525 (13) A statement disclosing who, if any, of the persons  
1526 listed in subsections (1) and (2) at any time during the  
1527 previous 7 fiscal years has:

1528 (a) Filed in bankruptcy.

1529 (b) Been adjudged bankrupt.

1530 (c) Been reorganized due to insolvency.

1531 (d) Been a principal, director, executive officer, or  
1532 partner of any other person that has so filed or was so adjudged  
1533 or reorganized during or within 1 year after the period that  
1534 such person held such position in relation to such other person.  
1535 If so, the name and location of the person having so filed or  
1536 having been so adjudged or reorganized, the date thereof, and  
1537 any other material facts relating thereto shall be set forth.

1538 (14) A copy of the business opportunity contract which the  
1539 seller uses as a matter of course and which is to be presented  
1540 to the purchaser at closing.

1541  
1542 ~~Should any seller of business opportunities prepare a disclosure~~  
1543 ~~statement pursuant to 16 C.F.R. ss. 436.1 et seq., a Trade~~  
1544 ~~Regulation Rule of the Federal Trade Commission regarding~~  
1545 ~~Disclosure Requirements and Prohibitions Concerning Franchising~~  
1546 ~~and Business Opportunity Ventures, the seller may file that~~  
1547 ~~disclosure statement in lieu of the document required pursuant~~  
1548 ~~to this section. Should the seller be required pursuant to 16~~  
1549 ~~C.F.R. to prepare any other documents to be presented to the~~  
1550 ~~prospective purchaser, those documents shall also be filed with~~  
1551 ~~the department.~~

1552       Section 42. Section 559.805, Florida Statutes, is  
1553 repealed.

1554       Section 43. Section 559.807, Florida Statutes, is amended  
1555 to read:

1556       559.807 Bond or other security required.—

1557       (1) If the business opportunity seller makes any  
1558 representations set forth in s. 559.801(1)(a)3., the seller must  
1559 either have obtained a surety bond issued by a surety company  
1560 authorized to do business in this state or have established a  
1561 certificate of deposit or a guaranteed letter of credit with a  
1562 licensed and insured bank or savings institution located in the  
1563 state. The amount of the bond, certificate of deposit, or  
1564 guaranteed letter of credit shall be an amount not less than  
1565 \$50,000.

1566       (2) ~~The bond, certificate of deposit, or guaranteed letter~~  
1567 ~~of credit shall be in the favor of the department for the use~~  
1568 ~~and benefit of any person who is injured by the fraud,~~



1569 ~~misrepresentation, breach of contract, financial failure, or~~  
1570 ~~violation of any provision of this part by the seller. Such~~  
1571 ~~liability may be enforced by filing an action at law in a court~~  
1572 ~~of competent jurisdiction without precluding enforcement in an~~  
1573 ~~administrative action pursuant to chapter 120. However, the~~  
1574 ~~bond, certificate of deposit, or guaranteed letter of credit~~  
1575 ~~shall be amenable and enforceable only by and through~~  
1576 ~~administrative proceedings before the department. A money~~  
1577 ~~judgment resulting from an action at law, less any award for~~  
1578 ~~costs and attorney's fees, shall be prima facie evidence~~  
1579 ~~sufficient to establish the value of the claim in an~~  
1580 ~~administrative action. It is the intent of the Legislature that~~  
1581 ~~such bond, certificate of deposit, or guaranteed letter of~~  
1582 ~~credit shall be applicable and liable only for payment of claims~~  
1583 ~~duly adjudicated by order of the department. The bond,~~  
1584 ~~certificate of deposit, or guaranteed letter of credit shall be~~  
1585 ~~open to successive claims but the aggregate amount may not~~  
1586 ~~exceed the amount of the bond, certificate of deposit, or~~  
1587 ~~guaranteed letter of credit.~~

1588 Section 44. Section 559.813, Florida Statutes, is amended  
1589 to read:

1590 559.813 Remedies; enforcement.—

1591 (1) If a business opportunity seller uses untrue or  
1592 misleading statements in the sale of a business opportunity,  
1593 fails to give the proper disclosures in the manner required by  
1594 this part, or fails to deliver the equipment, supplies, or  
1595 products necessary to begin substantial operation of the  
1596 business within 45 days after ~~of~~ the delivery date stated in the

1597 business opportunity contract, or if the contract does not  
1598 comply with the requirements of this part, the purchaser may,  
1599 within 1 year after ~~of~~ the date of execution of the contract and  
1600 upon written notice to the seller, rescind the contract and  
1601 shall be entitled to receive from the business opportunity  
1602 seller all sums paid to the business opportunity seller. Upon  
1603 receipt of such sums, the purchaser shall make available to the  
1604 seller at the purchaser's address, or at the places at which  
1605 they are located at the time notice is given, all products,  
1606 equipment, or supplies received by the purchaser. The purchaser  
1607 shall not be entitled to unjust enrichment by exercising the  
1608 remedies provided in this subsection.

1609 ~~(2) (a) The department may enter an order imposing one or~~  
1610 ~~more of the penalties set forth in paragraph (b) if the~~  
1611 ~~department finds that a seller or any of the seller's principal~~  
1612 ~~officers or agents:~~

1613 ~~1. Violated or is operating in violation of any of the~~  
1614 ~~provisions of this part or of the rules adopted or orders issued~~  
1615 ~~thereunder;~~

1616 ~~2. Made a material false statement in any application,~~  
1617 ~~document, or record required to be submitted or retained under~~  
1618 ~~this part;~~

1619 ~~3. Refused or failed, after notice, to produce any~~  
1620 ~~document or record or disclose any information required to be~~  
1621 ~~produced or disclosed under this part or the rules of the~~  
1622 ~~department;~~

1623 ~~4. Made a material false statement in response to any~~  
1624 ~~request or investigation by the department, the Department of~~

1625 ~~Legal Affairs, or the state attorney; or~~  
1626 ~~5. Has intentionally defrauded the public through~~  
1627 ~~dishonest or deceptive means.~~  
1628 ~~(b) Upon a finding as set forth in paragraph (a), the~~  
1629 ~~department may enter an order doing one or more of the~~  
1630 ~~following:~~  
1631 ~~1. Issuing a notice of noncompliance pursuant to s.~~  
1632 ~~120.695.~~  
1633 ~~2. Imposing an administrative fine not to exceed \$5,000~~  
1634 ~~per violation for each act which constitutes a violation of this~~  
1635 ~~part or a rule or order.~~  
1636 ~~3. Directing that the seller or its principal officers or~~  
1637 ~~agents cease and desist specified activities.~~  
1638 ~~4. Refusing to issue or revoking or suspending an~~  
1639 ~~advertisement identification number.~~  
1640 ~~5. Placing the registrant on probation for a period of~~  
1641 ~~time, subject to such conditions as the department may specify.~~  
1642 ~~(c) The administrative proceedings which could result in~~  
1643 ~~the entry of an order imposing any of the penalties specified in~~  
1644 ~~paragraph (b) shall be conducted in accordance with chapter 120.~~  
1645 ~~(2)-(3)~~ Any purchaser injured by a violation of this part,  
1646 or by the business opportunity seller's breach of a contract  
1647 subject to this part or any obligation arising therefrom, may  
1648 bring an action for recovery of damages, including reasonable  
1649 attorney ~~attorney's~~ fees.  
1650 ~~(3)-(4)~~ Upon complaint of any person that a business  
1651 opportunity seller has violated ~~the provisions of~~ this part, the  
1652 circuit court shall have jurisdiction to enjoin the defendant

1653 from further such violations.

1654 (4)~~(5)~~ The Department of Legal Affairs, ~~the Department of~~  
1655 ~~Agriculture and Consumer Services,~~ or the state attorney~~,~~ if a  
1656 violation of this part occurs in her or his judicial circuit, is  
1657 are the enforcing authority ~~authorities~~ for purposes of this  
1658 part~~,~~ and ~~they~~ may bring civil actions in circuit court for  
1659 temporary or permanent injunctive relief and may seek other  
1660 appropriate civil relief, including, but not limited to, a civil  
1661 penalty not to exceed \$5,000 for each violation, restitution and  
1662 damages for injured purchasers of business opportunities, and  
1663 court costs and reasonable attorney ~~attorney's~~ fees.

1664 (5)~~(6)~~ Any remedy provided in this section may be  
1665 recovered in an appropriate action, or the enforcing authority  
1666 may terminate any investigation or action upon agreement by the  
1667 offender to pay a ~~as~~ stipulated civil penalty, to make  
1668 restitution or pay damages to purchasers, or to satisfy any  
1669 other relief authorized in this section and requested by the  
1670 enforcing authority.

1671 (6)~~(7)~~ The remedies provided in this section ~~herein~~ shall  
1672 be in addition to any other remedies provided by law or in  
1673 equity.

1674 ~~(8) The department has the authority to adopt rules~~  
1675 ~~pursuant to chapter 120 to implement this part.~~

1676 Section 45. Section 559.815, Florida Statutes, is amended  
1677 to read:

1678 559.815 Penalties.—Any person who ~~fails to file with the~~  
1679 ~~department as required by s. 559.805 or who~~ commits an act  
1680 described in s. 559.809 is guilty of a felony of the third

1681 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1682 775.084.

1683 Section 46. Paragraph (a) of subsection (1) of section  
 1684 559.9221, Florida Statutes, is amended to read:

1685 559.9221 Motor Vehicle Repair Advisory Council.—The Motor  
 1686 Vehicle Repair Advisory Council is created to advise and assist  
 1687 the department in carrying out this part.

1688 (1) The membership of the council may not exceed nine ~~11~~  
 1689 members appointed by the Commissioner of Agriculture.

1690 (a) Six ~~Eight~~ industry members of the council must be  
 1691 chosen from individuals already engaged in the motor vehicle  
 1692 repair business who are eligible to be registered under this  
 1693 part. The professional members of this council must be licensed  
 1694 under this part. The commissioner shall select one industry  
 1695 member from each of the following categories:

- 1696 1. Independent automotive mechanics shops.
- 1697 2. Franchise or company-owned automotive mechanics shops.
- 1698 3. ~~Independent~~ Automotive collision shops.
- 1699 4. ~~Franchise or company-owned automotive collision shops.~~
- 1700 4.5. ~~Independent~~ Tire dealer.
- 1701 6. ~~Franchise or company-owned tire dealer.~~
- 1702 5.7. ~~Independent~~ motor vehicle dealer licensed under s.  
 1703 320.27.
- 1704 6.8. ~~Franchise~~ motor vehicle dealer licensed under s.  
 1705 320.27.

1706 Section 47. Paragraphs (a) and (b) of subsection (9) of  
 1707 section 616.242, Florida Statutes, are amended to read:

1708 616.242 Safety standards for amusement rides.—

1709 (9) INSURANCE REQUIREMENTS.—

1710 (a) An owner may not operate an amusement ride unless the  
 1711 owner has in effect at all times of operation ~~insurance meeting~~  
 1712 ~~the following requirements:~~

1713 1. an insurance policy in an amount of at least not less  
 1714 ~~than~~ \$1 million per occurrence, \$1 million in the aggregate,  
 1715 which insures the owner of the amusement ride against liability  
 1716 for injury to persons arising out of the use of the amusement  
 1717 ride; ~~or~~

1718 2. ~~A bond in a like amount; however, the aggregate~~  
 1719 ~~liability of the surety under the bond may not exceed the face~~  
 1720 ~~amount thereof.~~

1721 (b) The policy ~~or bond~~ must be procured from an insurer ~~or~~  
 1722 ~~surety~~ that is licensed to transact business in this state or  
 1723 that is approved as a surplus lines insurer.

1724 Section 48. Subsection (9) is added to section 721.20,  
 1725 Florida Statutes, to read:

1726 721.20 Licensing requirements; suspension or revocation of  
 1727 license; exceptions to applicability; collection of advance fees  
 1728 for listings unlawful.—

1729 (9) A person who meets the definition of a commercial  
 1730 telephone seller or salesperson as defined in s. 501.603 must be  
 1731 licensed under part IV of chapter 501 before doing business in  
 1732 this state under this chapter.

1733 Section 49. If any provision of this act or its  
 1734 application to any person or circumstance is held invalid, the  
 1735 invalidity does not affect other provisions or applications of  
 1736 the act which can be given effect without the invalid provision

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1737 | or application, and to this end the provisions of this act are  
1738 | severable.

1739 | Section 50. This act shall take effect July 1, 2013.