

HB 7051

2014

1 A bill to be entitled

2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 493.6108, F.S.;
4 revising conditions relating to the examination of
5 fingerprint records for private investigative,
6 security, and repossession service licenses; amending
7 s. 493.6113, F.S.; providing conditions for renewal of
8 certain firearm licenses; amending s. 493.6115, F.S.;
9 authorizing certain firearms licensees to carry
10 specified handguns; amending s. 493.6305, F.S.;
11 providing conditions under which certain licensees are
12 authorized to carry concealed firearms; amending s.
13 501.016, F.S.; providing for consumer claims against
14 certain bonds posted by health studios; repealing ss.
15 501.057, 501.0571, 501.0573, 501.0575, 501.0577,
16 501.0579, and 501.0581, F.S., relating to the
17 Commercial Weight-Loss Practices Act; repealing s.
18 501.0583, F.S., relating to selling or giving weight-
19 loss pills to persons under age 18; repealing s.
20 501.143, F.S., relating to the Dance Studio Act;
21 amending s. 501.059, F.S.; prohibiting telephone
22 solicitation of certain donors; amending s. 501.603,
23 F.S.; defining the term "novelty payment"; amending s.
24 501.611, F.S.; providing for consumer claims against
25 certain bonds posted by commercial telephone sellers;
26 amending s. 501.616, F.S.; prohibiting commercial

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 telephone sellers from accepting specified payments;
28 amending s. 501.913, F.S.; providing for expiration of
29 antifreeze registration certificates; amending s.
30 525.16, F.S.; revising administrative fine provisions
31 for gasoline and oil proprietors; creating s. 526.015,
32 F.S.; prohibiting the sale and distribution of certain
33 lubricating oil; amending s. 526.50, F.S.; deleting
34 the definition of the term "permit year"; amending s.
35 526.51, F.S.; revising provisions for issuance and
36 renewal of permits to sell brake fluid; amending s.
37 539.001, F.S.; revising administrative fine and civil
38 penalty provisions for pawnbroking licensees;
39 providing requirements for certain weight
40 descriptions; providing for consumer claims against
41 certain bonds posted by pawnbrokers; amending s.
42 559.929, F.S.; providing for consumer claims against
43 certain bonds posted by sellers of travel; amending s.
44 570.07, F.S.; directing the Division of Licensing to
45 provide certain service for administrative complaints
46 served on licensees and to publish and post notice
47 under certain conditions; amending s. 943.059, F.S.;
48 requiring the subject of a sealed criminal history
49 record to provide such information when applying for a
50 concealed weapon or concealed firearm permit;
51 providing applicability; amending ss. 205.1969 and
52 501.015, F.S.; conforming cross-references; providing

53 an effective date.

54

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

56

57 Section 1. Paragraph (a) of subsection (1) of section
58 493.6108, Florida Statutes, is amended to read:

59 493.6108 Investigation of applicants by Department of
60 Agriculture and Consumer Services.—

61 (1) Except as otherwise provided, the department must
62 investigate an applicant for a license under this chapter before
63 it may issue the license. The investigation must include:

64 (a)1. An examination of fingerprint records and police
65 records. If a criminal history record check of an ~~any~~ applicant
66 under this chapter is performed by means of fingerprint
67 identification, the time limitations prescribed by s. 120.60(1)
68 shall be tolled during the time the applicant's fingerprints are
69 under review by the Department of Law Enforcement or the United
70 States Department of Justice, Federal Bureau of Investigation.

71 2. If a legible set of fingerprints, as determined by the
72 Department of Law Enforcement or the Federal Bureau of
73 Investigation, cannot be obtained after two attempts, the
74 Department of Agriculture and Consumer Services may determine
75 the applicant's eligibility based upon a criminal history record
76 check under the applicant's name conducted by the Department of
77 Law Enforcement ~~if the fingerprints are taken by a law~~
78 ~~enforcement agency or the department and the applicant submits a~~

79 ~~written statement signed by the fingerprint technician or a~~
80 ~~licensed physician stating that there is a physical condition~~
81 ~~that precludes obtaining a legible set of fingerprints or that~~
82 ~~the fingerprints taken are the best that can be obtained.~~

83 Section 2. Paragraph (b) of subsection (3) of section
84 493.6113, Florida Statutes, is amended to read:

85 493.6113 Renewal application for licensure.—

86 (3) Each licensee is responsible for renewing his or her
87 license on or before its expiration by filing with the
88 department an application for renewal accompanied by payment of
89 the prescribed license fee.

90 (b) Each Class "G" licensee shall additionally submit
91 proof that he or she has received during each year of the
92 license period a minimum of 4 hours of firearms recertification
93 training taught by a Class "K" licensee and has complied with
94 such other health and training requirements which the department
95 shall adopt by rule. Proof of completion of firearms
96 recertification training shall be submitted to the department
97 upon completion of the training. If the licensee fails to
98 complete documentation of completion of the required 4 hours of
99 annual training during is not submitted by the end of the first
100 year of the 2-year term of the license, the individual's license
101 shall be automatically suspended until proof of the required
102 training is submitted to the department. The licensee must
103 complete the minimum number of hours of range and classroom
104 training required at the time of initial licensure and submit

105 proof of completion of such training to the department before
106 the license may be reinstated. If the licensee fails to complete
107 ~~documentation of completion of~~ the required 4 hours of annual
108 training during ~~is not submitted by the end of~~ the second year
109 of the 2-year term of the license, the licensee must complete
110 ~~license shall not be renewed unless the renewal applicant~~
111 ~~completes~~ the minimum number of hours of range and classroom
112 training required at the time of initial licensure and submit
113 proof of completion of such training to the department before
114 the license may be renewed. The department may waive the
115 firearms training requirement if:

116 1. The applicant provides proof that he or she is
117 currently certified as a law enforcement officer or correctional
118 officer under the Criminal Justice Standards and Training
119 Commission and has completed law enforcement firearms
120 requalification training annually during the previous 2 years of
121 the licensure period;

122 2. The applicant provides proof that he or she is
123 currently certified as a federal law enforcement officer and has
124 received law enforcement firearms training administered by a
125 federal law enforcement agency annually during the previous 2
126 years of the licensure period; or

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

131 Section 3. Subsection (6) of section 493.6115, Florida
 132 Statutes, is amended to read:

133 493.6115 Weapons and firearms.—

134 (6) In addition to any other firearm approved by the
 135 department, a licensee who has been issued a Class "G" license
 136 may carry a .38 caliber revolver; or a .380 caliber or 9
 137 millimeter semiautomatic pistol; or a .357 caliber revolver with
 138 .38 caliber ammunition only; or a .40 caliber handgun; or a .45
 139 ACP handgun while performing duties authorized under this
 140 chapter. ~~A~~ ~~No~~ licensee may not carry more than two firearms upon
 141 her or his person when performing her or his duties. A licensee
 142 may only carry a firearm of the specific type and caliber with
 143 which she or he is qualified pursuant to the firearms training
 144 referenced in subsection (8) or s. 493.6113(3)(b).

145 Section 4. Subsection (4) is added to section 493.6305,
 146 Florida Statutes, to read:

147 493.6305 Uniforms, required wear; exceptions.—

148 (4) Class "D" licensees who are also Class "G" licensees
 149 and who are performing bodyguard or executive protection
 150 services may carry their authorized firearm concealed while in
 151 nonuniform as needed in the conduct of such services.

152 Section 5. Subsections (3) through (10) of section
 153 501.016, Florida Statutes, are renumbered as subsections (5)
 154 through (12), respectively, subsections (1) and (2) are amended,
 155 and new subsections (3) and (4) are added to that section, to
 156 read:

157 501.016 Health studios; security requirements.—Each health
 158 studio that sells contracts for health studio services shall
 159 meet the following requirements:

160 (1) Each health studio shall maintain for each separate
 161 business location a bond issued by a surety company admitted to
 162 do business in this state. The principal sum of the bond shall
 163 be \$25,000, and the bond, when required, shall be obtained
 164 before a business tax receipt may be issued under chapter 205.
 165 Upon issuance of a business tax receipt, the licensing authority
 166 shall immediately notify the department of such issuance in a
 167 manner established by the department by rule. The bond shall be
 168 in favor of the department ~~state~~ for the benefit of a ~~any~~ person
 169 injured as a result of a violation of ss. 501.012-501.019.
 170 Liability for injuries as a result of a violation of ss.
 171 501.012-501.019 may be determined in an administrative
 172 proceeding of the department or through a civil action in a
 173 court of competent jurisdiction. However, claims against the
 174 bond or certificate of deposit may only be paid by order of the
 175 department in an administrative proceeding in amounts not to
 176 exceed the determined liability for the injuries. The aggregate
 177 liability of the surety to all persons for all breaches of the
 178 conditions of the bonds provided herein shall in no event exceed
 179 the amount of the bond. The original surety bond required by
 180 this section shall be filed with the department on a form
 181 adopted by rule of the department.

182 (2) In lieu of maintaining the bond required in subsection

183 (1), the health studio may furnish to the department on a form
 184 adopted by rule of the department:

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

187 (b) A guaranty agreement that is secured by a certificate
 188 of deposit in the amount of \$25,000.

189
 190 The original letter of credit or certificate of deposit
 191 submitted in lieu of the bond shall be filed with the
 192 department. The department shall decide whether the security
 193 furnished in lieu of bond by the health studio is in compliance
 194 with the requirements of this section.

195 (3) A consumer may file a claim against the bond or other
 196 form of security specified in subsection (1). The claim shall be
 197 filed with the department on a form adopted by rule of the
 198 department within 120 days after an alleged injury has occurred
 199 or is discovered to have occurred or judgment has been obtained
 200 by a court of competent jurisdiction. The proceedings shall be
 201 held pursuant to chapter 120. For proceedings held pursuant to
 202 ss. 120.569 and 120.57, the department shall act only as a
 203 nominal party.

204 (4) Any indebtedness determined by final order of the
 205 department shall be paid by the health studio to the department
 206 within 30 days after the order is entered for disbursement to
 207 the consumer. If the health studio fails to make payment within
 208 30 days, the department shall make a demand for payment upon the

209 surety which includes an institution issuing a letter of credit
 210 or depository on a certificate of deposit. Upon failure of a
 211 surety to comply with a demand for payment pursuant to a final
 212 order, the department may file an action in circuit court to
 213 recover payment, not to exceed the amount of the bond or other
 214 form of security, pursuant to s. 120.69. If the department
 215 prevails in such action, the department may recover court costs
 216 and reasonable attorney fees to be fixed and collected as a part
 217 of the costs of the suit.

218 Section 6. Sections 501.057, 501.0571, 501.0573, 501.0575,
 219 501.0577, 501.0579, 501.0581, 501.0583, and 501.143, Florida
 220 Statutes, are repealed.

221 Section 7. Subsection (5) of section 501.059, Florida
 222 Statutes, is amended to read:

223 501.059 Telephone solicitation.—

224 (5) A telephone solicitor or other person may not initiate
 225 an outbound telephone call to a consumer or donor or potential
 226 donor who has previously communicated to the telephone solicitor
 227 or other person that he or she does not wish to receive an
 228 outbound telephone call:

229 (a) Made by or on behalf of the seller whose goods or
 230 services are being offered; or

231 (b) Made on behalf of a charitable organization for which
 232 a charitable contribution is being solicited.

233 Section 8. Subsections (8) through (11) of section
 234 501.603, Florida Statutes, are renumbered as subsections (9)

235 through (12), respectively, and a new subsection (8) is added to
236 that section, to read:

237 501.603 Definitions.—As used in this part, unless the
238 context otherwise requires, the term:

239 (8) "Novelty payment" means a payment method that does not
240 provide systematic monitoring to detect and deter fraud,
241 including, but not limited to, a remotely created check, a
242 remotely created payment order, a cash-to-cash transfer, or a
243 cash reload mechanism. As used in this subsection, the term:

244 (a) "Remotely created check" means a check that is not
245 created by the paying bank and that is not purported to be
246 signed by the person on whose account the check is drawn.

247 (b) "Remotely created payment order" means a payment
248 instruction or order drawn on a person's account that is
249 initiated or created by the payee and that is not purported to
250 be signed by the person on whose account the order is drawn, and
251 which is cleared through a check-clearing system.

252 (c) "Cash-to-cash transfer" means the electronic transfer
253 of the value of cash received from one person to another person
254 in a different location which is sent by a money transfer
255 provider and received in the form of cash. For purposes of this
256 paragraph, the term "money transfer provider" means a person or
257 financial institution that provides cash-to-cash money transfers
258 for a person in the normal course of its business, whether or
259 not the person holds an account with such person or financial
260 institution.

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261 (d) "Cash reload mechanism" means a mechanism that
262 converts cash into an electronic form that a person can use to
263 add money to a general-use prepaid card or an online account
264 with a payment intermediary. For purposes of this paragraph, a
265 cash reload mechanism is purchased by a person on a prepaid
266 basis, enables access to the funds via an authorization code or
267 other security measure, and is not itself a general-use prepaid
268 card.

269 Section 9. Section 501.611, Florida Statutes, is amended
270 to read:

271 501.611 Security.—

272 (1) An application filed pursuant to s. 501.605 must be
273 accompanied by:

274 (a) A bond executed by a corporate surety approved by the
275 department and licensed to do business in this state;

276 (b) An irrevocable letter of credit issued for the benefit
277 of the applicant by a bank whose deposits are insured by an
278 agency of the Federal Government; or

279 (c) A certificate of deposit in a financial institution
280 insured by an agency of the Federal Government, which may be
281 withdrawn only on the order of the department, except that the
282 interest may accrue to the applicant.

283 (2) The amount of the bond, letter of credit, or
284 certificate of deposit must be a minimum of \$50,000, and the
285 bond, letter of credit, or certificate of deposit shall be in
286 favor of the department for the use and benefit of a purchaser

287 who is injured by the fraud, misrepresentation, breach of
288 contract, financial failure, or violation of this part by the
289 applicant ~~must be conditioned upon compliance by the applicant~~
290 ~~with the provisions of this part.~~ The department may, at its
291 discretion, establish a bond of a greater amount to ensure the
292 general welfare of the public and the interests of the
293 telemarketing industry.

294 (3) The bond shall be posted with the department on a form
295 adopted by rule of the department and shall remain in force
296 throughout the period of licensure with the department.

297 (4) The department or a ~~any~~ governmental agency, on behalf
298 of an ~~any~~ injured purchaser or a ~~any~~ purchaser herself or
299 herself who is injured by ~~the bankruptcy of the applicant or her~~
300 ~~or his breach of any agreement entered into in her or his~~
301 ~~capacity as a licensee~~, may bring and maintain an action to
302 recover against the bond, letter of credit, or certificate of
303 deposit.

304 (5) A consumer may file a claim against the bond or other
305 form of security specified in subsection (2). The claim shall be
306 filed with the department on a form adopted by rule of the
307 department within 120 days after an alleged injury has occurred
308 or is discovered to have occurred or judgment has been obtained
309 by a court of competent jurisdiction. The proceedings shall be
310 held pursuant to chapter 120. For proceedings held pursuant to
311 ss. 120.569 and 120.57, the department shall act only as a
312 nominal party.

313 (6) Any indebtedness determined by final order of the
 314 department shall be paid by the commercial telephone seller to
 315 the department within 30 days after the order is entered for
 316 disbursement to the consumer. If the commercial telephone seller
 317 fails to make payment within 30 days, the department shall make
 318 a demand for payment upon the surety which includes an
 319 institution issuing a letter of credit or depository on a
 320 certificate of deposit. Upon failure of a surety to comply with
 321 a demand for payment pursuant to a final order, the department
 322 may file an action in circuit court to recover payment, not to
 323 exceed the amount of the bond or other form of security,
 324 pursuant to s. 120.69. If the department prevails, the
 325 department may recover court costs and reasonable attorney fees
 326 to be fixed and collected as a part of the costs of the suit.

327 Section 10. Subsection (1) of section 501.616, Florida
 328 Statutes, is amended to read:

329 501.616 Unlawful acts and practices.—

330 (1) ~~A~~ It shall be unlawful for any commercial telephone
 331 seller or salesperson may not directly or indirectly accept a
 332 novelty payment, as defined in s. 501.603(8) or by rule of the
 333 department, as payment for goods or services offered or sold
 334 through telemarketing ~~to require that payment be by credit card~~
 335 ~~authorization or otherwise to announce a preference for that~~
 336 ~~method of payment.~~

337 Section 11. Subsection (1) of section 501.913, Florida
 338 Statutes, is amended to read:

339 501.913 Registration.—

340 (1) Each brand of antifreeze to be distributed in this
341 state shall be registered with the department before
342 distribution. The person whose name appears on the label, the
343 manufacturer, or the packager shall make application annually to
344 the department on forms provided by the department ~~no later than~~
345 ~~July 1 of each year~~. The registration certificate shall expire
346 12 months after the date of issue. The registrant assumes, by
347 application to register the brand, full responsibility for the
348 registration, quality, and quantity of the product sold,
349 offered, or exposed for sale in this state. If a registered
350 brand is not in production for distribution in this state and to
351 ensure any remaining product that is still available for sale in
352 the state is properly registered, the registrant must submit a
353 notarized affidavit on company letterhead to the department
354 certifying that:

355 (a) The stated brand is no longer in production;

356 (b) The stated brand will not be distributed in this
357 state; and

358 (c) All existing product of the stated brand will be
359 removed by the registrant from the state within 30 days after
360 expiration of the registration or the registrant will reregister
361 the brand for two subsequent registration periods.

362
363 If production resumes, the brand must be reregistered before it
364 is distributed in this state.

365 Section 12. Paragraph (b) of subsection (1) of section
 366 525.16, Florida Statutes, is amended to read:

367 525.16 Administrative fine; penalties; prosecution of
 368 cases by state attorney.—

369 (1)

370 (b) If, 3 years after the date ~~day of issuance~~ of the last
 371 ~~stop-sale order for a~~ violation under this chapter, a ~~no~~ new
 372 violation has not occurred at the same location during the
 373 proprietorship of the same person, all previous fines shall be
 374 disregarded when administering a fine for the next violation.

375 Section 13. Section 526.015, Florida Statutes, is created
 376 to read:

377 526.015 Lubricating oil standards and labeling
 378 requirements.—

379 (1) It is unlawful to sell or distribute, or offer for
 380 sale or distribution, a lubricating oil that fails to meet the
 381 standards or labeling requirements adopted by rule of the
 382 department.

383 (2) A product that fails to meet the standards or labeling
 384 requirements adopted by rule of the department shall be placed
 385 under a stop-sale order by the department and the lot of the
 386 product shall be identified and tagged by the department to
 387 prohibit sale of the product. A product that has been placed
 388 under a stop-sale order may not be sold or distributed or
 389 offered for sale or distribution.

390 (3) The department shall issue a release order if the

391 product is made to conform to standards and labeling
 392 requirements adopted by rule of the department or removed from
 393 the premises in a manner approved by the department.

394 Section 14. Subsection (6) of section 526.50, Florida
 395 Statutes, is amended to read:

396 526.50 Definition of terms.—As used in this part:

397 ~~(6) "Permit year" means a period of 12 months commencing~~
 398 ~~July 1 and ending on the next succeeding June 30.~~

399 Section 15. Subsection (1) of section 526.51, Florida
 400 Statutes, is amended to read:

401 526.51 Registration; renewal and fees; departmental
 402 expenses; cancellation or refusal to issue or renew.—

403 (1) (a) Application for registration of each brand of brake
 404 fluid shall be made on forms supplied by the department. The
 405 applicant shall give his or her name and address and the brand
 406 name of the brake fluid, state that he or she owns the brand
 407 name and has complete control over the product sold thereunder
 408 in this state, and provide the name and address of the resident
 409 agent in this state. If the applicant does not own the brand
 410 name but wishes to register the product with the department, a
 411 notarized affidavit that gives the applicant full authorization
 412 to register the brand name and that is signed by the owner of
 413 the brand name must accompany the application for registration.
 414 The affidavit must include all affected brand names, the owner's
 415 company or corporate name and address, the applicant's company
 416 or corporate name and address, and a statement from the owner

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417 authorizing the applicant to register the product with the
418 department. The owner of the brand name shall maintain complete
419 control over each product sold under that brand name in this
420 state. All first-time applications for a brand and formula
421 combination must be accompanied by a certified report from an
422 independent testing laboratory, setting forth the analysis of
423 the brake fluid which shows its quality to be not less than the
424 specifications established by the department for brake fluids. A
425 sample of not less than 24 fluid ounces of brake fluid shall be
426 submitted, in a container or containers, with labels
427 representing exactly how the containers of brake fluid will be
428 labeled when sold, and the sample and container shall be
429 analyzed and inspected by the department in order that
430 compliance with the department's specifications and labeling
431 requirements may be verified. Upon approval of the application,
432 the department shall register the brand name of the brake fluid
433 and issue to the applicant a permit authorizing the registrant
434 to sell the brake fluid in this state ~~during the permit year~~
435 ~~specified in the permit.~~ The registration certificate shall
436 expire 12 months after the date of issue.

437 (b) Each applicant shall pay a fee of \$100 with each
438 application. A permit may be renewed by application to the
439 department, accompanied by a renewal fee of \$50 on or before the
440 expiration last day of the previously issued permit year
441 ~~immediately preceding the permit year for which application is~~
442 ~~made for renewal of registration.~~ To reregister a previously

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443 registered brand and formula combination, an applicant must
444 submit a completed application and all materials as required in
445 this section to the department before the expiration ~~first day~~
446 of the previously issued permit ~~year~~. A brand and formula
447 combination for which a completed application and all materials
448 required in this section are not received before the expiration
449 ~~first day~~ of the previously issued permit ~~year~~ may not be
450 registered with the department until a completed application and
451 all materials required in this section have been received and
452 approved. If the brand and formula combination was previously
453 registered with the department and a fee, application, or
454 materials required in this section are received after the
455 expiration ~~first day~~ of the previously issued permit ~~year~~, a
456 penalty of \$25 accrues, which shall be added to the fee.
457 Renewals shall be accepted only on brake fluids that have no
458 change in formula, composition, or brand name. Any change in
459 formula, composition, or brand name of a ~~any~~ brake fluid
460 constitutes a new product that must be registered in accordance
461 with this part.

462 (c) In order to ensure that any remaining product still
463 available for sale in this state is properly registered, if a
464 registered brand and formula combination is no longer in
465 production for distribution in this state, the registrant must
466 submit a notarized affidavit on company letterhead to the
467 department certifying that:

468 1. The stated brand and formula combination is no longer

469 in production;

470 2. The stated brand and formula combination will not be
471 distributed in this state; and

472 3. All existing product of the stated brand and formula
473 combination will be removed by the registrant from the state
474 within 30 days after the expiration of the registration or that
475 the registrant will reregister the brand and formula combination
476 for two subsequent years ~~registration periods~~.

477

478 If production resumes, the brand and formula combination must be
479 reregistered before it is again distributed in this state.

480 Section 16. Subsections (16) through (21) of section
481 539.001, Florida Statutes, are renumbered as subsections (17)
482 through (22), respectively, paragraph (a) of subsection (4),
483 paragraphs (b) and (d) of subsection (7), and paragraph (b) of
484 subsection (8) of that section are amended, and a new subsection
485 (16) is added to that section, to read:

486 539.001 The Florida Pawnbroking Act.—

487 (4) ELIGIBILITY FOR LICENSE.—

488 (a) To be eligible for a pawnbroker's license, an
489 applicant must:

490 1. Be of good moral character;

491 2. Have a net worth of at least \$50,000 or file with the
492 agency a bond issued by a surety company qualified to do
493 business in this state in the amount of \$10,000 for each
494 license. In lieu of the bond required in this section, the

495 applicant may establish a certificate of deposit or an
496 irrevocable letter of credit in a Florida banking institution in
497 the amount of the bond. The original bond, certificate of
498 deposit, or letter of credit shall be filed with the agency on a
499 form adopted by rule of the agency, and the agency shall be the
500 beneficiary to said document. The bond, certificate of deposit,
501 or letter of credit shall be in favor of the agency for the use
502 and benefit of a ~~any~~ consumer who is injured by the fraud,
503 misrepresentation, breach of contract, financial failure, or
504 violation ~~of any provision of~~ this section by the pawnbroker.
505 Such liability may be enforced ~~either~~ by proceeding in an
506 administrative action or by filing a judicial suit at law in a
507 court of competent jurisdiction. However, in such court suit,
508 the bond, certificate of deposit, or letter of credit posted
509 with the agency shall not be amenable or subject to a ~~any~~
510 judgment or other legal process issuing out of or from such
511 court in connection with such lawsuit, but such bond,
512 certificate of deposit, or letter of credit shall be amenable to
513 and enforceable only by and through administrative proceedings
514 before the agency. It is the intent of the Legislature that such
515 bond, certificate of deposit, or letter of credit shall be
516 applicable and liable only for the payment of claims duly
517 adjudicated by order of the agency. The bond, certificate of
518 deposit, or letter of credit shall be payable on a pro rata
519 basis as determined by the agency, but the aggregate amount may
520 not exceed the amount of the bond, certificate of deposit, or

521 letter of credit;

522 3. Not have been convicted of, or found guilty of, or pled
523 guilty or nolo contendere to, or not have been incarcerated
524 within the last 10 years as a result of having previously been
525 convicted of, or found guilty of, or pled guilty or nolo
526 contendere to, regardless of adjudication, a felony within the
527 last 10 years and not be acting as a beneficial owner for
528 someone who has been convicted of, or found guilty of, or pled
529 guilty or nolo contendere to, regardless of adjudication, a
530 felony within the last 10 years; and

531 4. Not have been convicted of, or found guilty of, or pled
532 guilty or nolo contendere to, or not have been incarcerated
533 within the last 10 years as a result of having previously been
534 convicted of, or found guilty of, or pled guilty or nolo
535 contendere to, regardless of adjudication, a crime that involves
536 theft, larceny, dealing in stolen property, receiving stolen
537 property, burglary, embezzlement, obtaining property by false
538 pretenses, possession of altered property, or any other
539 fraudulent or dishonest dealing within the last 10 years, and
540 not be acting as a beneficial owner for someone who has been
541 convicted, of, or found guilty of, or pled guilty or nolo
542 contendere to, or has been incarcerated within the last 10 years
543 as a result of having previously been convicted of, or found
544 guilty of, or pled guilty or nolo contendere to, regardless of
545 adjudication, a crime that involves theft, larceny, dealing in
546 stolen property, receiving stolen property, burglary,

547 embezzlement, obtaining property by false pretenses, possession
 548 of altered property, or any other fraudulent or dishonest
 549 dealing within the last 10 years.

550 (7) ORDERS IMPOSING PENALTIES.—

551 (b) Upon a finding as set forth in paragraph (a), the
 552 agency may enter an order doing one or more of the following:

553 1. Issuing a notice of noncompliance pursuant to s.
 554 120.695.

555 2. Imposing an administrative fine not to exceed \$5,000 or
 556 the maximum fine amount in the Class II category pursuant to s.
 557 570.971, whichever is greater, for each ~~act which constitutes a~~
 558 violation of this section or a rule or an order.

559 3. Directing that the pawnbroker cease and desist
 560 specified activities.

561 4. Refusing to license or revoking or suspending a
 562 license.

563 5. Placing the licensee on probation for a period of time,
 564 subject to such conditions as the agency may specify.

565 (d)1. When the agency, if a violation of this section
 566 occurs, has reasonable cause to believe that a person is
 567 operating in violation of this section, the agency may bring a
 568 civil action in the appropriate court for temporary or permanent
 569 injunctive relief and may seek other appropriate civil relief,
 570 including a civil penalty not to exceed \$5,000 or the maximum
 571 fine amount in the Class II category pursuant to s. 570.971,
 572 whichever is greater, for each violation, restitution and

573 damages for injured customers, court costs, and reasonable
 574 attorney ~~attorney's~~ fees.

575 2. The agency may terminate an ~~any~~ investigation or action
 576 upon agreement by the offender to pay a stipulated civil
 577 penalty, to make restitution or pay damages to customers, or to
 578 satisfy any other relief authorized under this subsection ~~herein~~
 579 and requested by the agency.

580 (8) PAWNBROKER TRANSACTION FORM.—

581 (b) The front of the pawnbroker transaction form must
 582 include:

583 1. The name and address of the pawnshop.

584 2. A complete and accurate description of the pledged
 585 goods or purchased goods, including the following information,
 586 if applicable:

587 a. Brand name.

588 b. Model number.

589 c. Manufacturer's serial number.

590 d. Size.

591 e. Color, as apparent to the untrained eye.

592 f. Precious metal type, weight, and content, if known.

593 Weight must be obtained from a device that has been approved by
 594 the agency and that complies with ss. 531.39 and 531.40 and
 595 other applicable provisions of chapter 531.

596 g. Gemstone description, including the number of stones.

597 h. In the case of firearms, the type of action, caliber or
 598 gauge, number of barrels, barrel length, and finish.

599 i. Any other unique identifying marks, numbers, names, or
600 letters.

601
602 Notwithstanding sub-subparagraphs a.-i., in the case of multiple
603 items of a similar nature delivered together in one transaction
604 which do not bear serial or model numbers and which do not
605 include precious metal or gemstones, such as musical or video
606 recordings, books, and hand tools, the description of the items
607 is adequate if it contains the quantity of items and a
608 description of the type of items delivered.

609 3. The name, address, home telephone number, place of
610 employment, date of birth, physical description, and right
611 thumbprint of the pledgor or seller.

612 4. The date and time of the transaction.

613 5. The type of identification accepted from the pledgor or
614 seller, including the issuing agency and the identification
615 number.

616 6. In the case of a pawn:

617 a. The amount of money advanced, which must be designated
618 as the amount financed;

619 b. The maturity date of the pawn, which must be 30 days
620 after the date of the pawn;

621 c. The default date of the pawn and the amount due on the
622 default date;

623 d. The total pawn service charge payable on the maturity
624 date, which must be designated as the finance charge;

625 e. The amount financed plus the finance charge that must
 626 be paid to redeem the pledged goods on the maturity date, which
 627 must be designated as the total of payments;

628 f. The annual percentage rate, computed according to the
 629 regulations adopted by the Federal Reserve Board under the
 630 federal Truth in Lending Act; and

631 g. The front or back of the pawnbroker transaction form
 632 must include a statement that:

633 (I) Any personal property pledged to a pawnbroker within
 634 this state which is not redeemed within 30 days following the
 635 maturity date of the pawn, if the 30th day is not a business
 636 day, then the following business day, is automatically forfeited
 637 to the pawnbroker, and absolute right, title, and interest in
 638 and to the property vests in and is deemed conveyed to the
 639 pawnbroker by operation of law, and no further notice is
 640 necessary;

641 (II) The pledgor is not obligated to redeem the pledged
 642 goods; and

643 (III) If the pawnbroker transaction form is lost,
 644 destroyed, or stolen, the pledgor must immediately advise the
 645 issuing pawnbroker in writing by certified or registered mail,
 646 return receipt requested, or in person evidenced by a signed
 647 receipt.

648 (IV) A pawn may be extended upon mutual agreement of the
 649 parties.

650 7. In the case of a purchase, the amount of money paid for

651 the goods or the monetary value assigned to the goods in
 652 connection with the transaction.

653 8. A statement that the pledgor or seller of the item
 654 represents and warrants that it is not stolen, that it has no
 655 liens or encumbrances against it, and that the pledgor or seller
 656 is the rightful owner of the goods and has the right to enter
 657 into the transaction.

658 A ~~Any~~ person who knowingly gives false verification of ownership
 659 or gives a false or altered identification and who receives
 660 money from a pawnbroker for goods sold or pledged commits:

661 a. If the value of the money received is less than \$300, a
 662 felony of the third degree, punishable as provided in s.
 663 775.082, s. 775.083, or s. 775.084.

664 b. If the value of the money received is \$300 or more, a
 665 felony of the second degree, punishable as provided in s.
 666 775.082, s. 775.083, or s. 775.084.

667 (16) CLAIMS AGAINST SECURITIES FILED WITH AGENCY.-

668 (a) A consumer may file a claim against the bond or other
 669 form of security specified in subsection (4). The claim shall be
 670 filed with the agency on a form adopted by rule of the agency
 671 within 120 days after an alleged injury has occurred or is
 672 discovered to have occurred or judgment has been obtained by a
 673 court of competent jurisdiction. The proceedings shall be held
 674 pursuant to chapter 120. For proceedings held pursuant to ss.
 675 120.569 and 120.57, the agency shall act only as a nominal
 676 party.

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677 (b) Indebtedness determined by final order of the agency
678 shall be paid by the pawnbroker to the agency within 30 days
679 after the order is entered for disbursement to the consumer. If
680 the pawnbroker fails to make payment within 30 days, the agency
681 shall make a demand for payment upon the surety which includes
682 an institution issuing a letter of credit or depository on a
683 certificate of deposit. Upon failure of a surety to comply with
684 a demand for payment pursuant to a final order, the agency may
685 file an action in circuit court to recover payment, not to
686 exceed the amount of the bond or other form of security,
687 pursuant to s. 120.69. If the agency prevails in such action,
688 the agency may recover court costs and reasonable attorney fees
689 to be fixed and collected as a part of the costs of the suit.

690 Section 17. Subsections (4) and (5) of section 559.929,
691 Florida Statutes, are renumbered as subsections (5) and (6),
692 respectively, subsections (2) and (3) are amended, and a new
693 subsection (4) is added to that section, to read:

694 559.929 Security requirements.—

695 (2) The bond shall be filed with the department on a form
696 adopted by rule of the department and shall be in favor of the
697 department for the use and benefit of a ~~any~~ traveler who is
698 injured by the fraud, misrepresentation, breach of contract,
699 financial failure, or violation of ~~any provision of~~ this part by
700 the seller of travel. Such liability may be enforced ~~either~~ by
701 proceeding in an administrative action as specified in
702 subsection (3) or by filing a judicial suit at law in a court of

703 competent jurisdiction. However, in such court suit the bond
 704 posted with the department shall not be amenable or subject to a
 705 ~~any~~ judgment or other legal process issuing out of or from such
 706 court in connection with such lawsuit, but such bond shall be
 707 amenable to and enforceable only by and through administrative
 708 proceedings before the department. It is the intent of the
 709 Legislature that such bond shall be applicable and liable only
 710 for the payment of claims duly adjudicated by order of the
 711 department. The bond shall be open to successive claims, but the
 712 aggregate amount may not exceed the amount of the bond. In
 713 addition to the foregoing, a bond provided by a registrant or
 714 applicant for registration which certifies its business
 715 activities under s. 559.9285(1)(b) or (c) shall be in favor of
 716 the department, with payment in the following order of priority:

717 (a) All expenses for prosecuting the registrant or
 718 applicant in an ~~any~~ administrative or civil action under this
 719 part, including fees for attorneys and other professionals,
 720 court costs or other costs of the proceedings, and all other
 721 expenses incidental to the action.

722 (b) All costs and expenses of investigation before ~~prior~~
 723 ~~to~~ the commencement of an administrative or civil action under
 724 this part.

725 (c) An ~~Any~~ unpaid administrative fine imposed by final
 726 order or an ~~any~~ unpaid civil penalty imposed by final judgment
 727 under this part.

728 (d) Damages or compensation for a ~~any~~ traveler injured as

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729 provided in this subsection.

730 (3) A ~~Any~~ traveler may file a claim against the bond
731 specified in subsection (2). The claim shall be filed with the
732 department on a form adopted by rule of ~~which shall be made in~~
733 ~~writing to~~ the department within 120 days after an alleged
734 injury has occurred or is discovered to have occurred or
735 judgment has been obtained by a court of competent jurisdiction.
736 The proceedings shall be held pursuant to chapter 120. For ~~The~~
737 ~~proceedings shall be held pursuant to in accordance with~~ ss.
738 120.569 and 120.57, the agency shall act only as a nominal
739 party.

740 (4) Indebtedness determined by final order of the
741 department shall be paid by the seller of travel to the
742 department within 30 days after the order is entered for
743 disbursement to the consumer. If the seller of travel fails to
744 make payment within 30 days, the agency shall make a demand for
745 payment upon the surety which includes an institution issuing a
746 letter of credit or depository on a certificate of deposit. Upon
747 failure of a surety to comply with a demand for payment pursuant
748 to a final order, the department may file an action in circuit
749 court to recover payment, not to exceed the amount of the bond
750 or other form of security, pursuant to s. 120.69. If the
751 department prevails, the department may recover court costs and
752 reasonable attorney fees to be fixed and collected as a part of
753 the costs of the suit.

754 Section 18. Subsection (43) is added to section 570.07,

755 Florida Statutes, to read:

756 570.07 Department of Agriculture and Consumer Services;
 757 functions, powers, and duties.—The department shall have and
 758 exercise the following functions, powers, and duties:

759 (43) (a) Notwithstanding any other provision of law, when
 760 an administrative complaint is served on a licensee of the
 761 Division of Licensing pursuant to s. 790.06, the division shall
 762 provide service by regular mail to the licensee's last known
 763 address of record, by certified mail to the last known address
 764 of record, and, if possible, by e-mail.

765 (b) If service under paragraph (a) does not provide the
 766 division with proof of service and the division has an address
 767 in another state or a foreign territory or country on file for
 768 the individual, the division shall call, if available, the last
 769 known telephone number of record, shall publish notice in a
 770 newspaper of general circulation in Leon County, and shall cause
 771 a short, plain notice to the license to be posted on the
 772 homepage of the department's website.

773 Section 19. Subsection (4) of section 943.059, Florida
 774 Statutes, is amended to read:

775 943.059 Court-ordered sealing of criminal history
 776 records.—The courts of this state shall continue to have
 777 jurisdiction over their own procedures, including the
 778 maintenance, sealing, and correction of judicial records
 779 containing criminal history information to the extent such
 780 procedures are not inconsistent with the conditions,

781 responsibilities, and duties established by this section. Any
782 court of competent jurisdiction may order a criminal justice
783 agency to seal the criminal history record of a minor or an
784 adult who complies with the requirements of this section. The
785 court shall not order a criminal justice agency to seal a
786 criminal history record until the person seeking to seal a
787 criminal history record has applied for and received a
788 certificate of eligibility for sealing pursuant to subsection
789 (2). A criminal history record that relates to a violation of s.
790 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
791 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
792 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
793 916.1075, a violation enumerated in s. 907.041, or any violation
794 specified as a predicate offense for registration as a sexual
795 predator pursuant to s. 775.21, without regard to whether that
796 offense alone is sufficient to require such registration, or for
797 registration as a sexual offender pursuant to s. 943.0435, may
798 not be sealed, without regard to whether adjudication was
799 withheld, if the defendant was found guilty of or pled guilty or
800 nolo contendere to the offense, or if the defendant, as a minor,
801 was found to have committed or pled guilty or nolo contendere to
802 committing the offense as a delinquent act. The court may only
803 order sealing of a criminal history record pertaining to one
804 arrest or one incident of alleged criminal activity, except as
805 provided in this section. The court may, at its sole discretion,
806 order the sealing of a criminal history record pertaining to

807 more than one arrest if the additional arrests directly relate
808 to the original arrest. If the court intends to order the
809 sealing of records pertaining to such additional arrests, such
810 intent must be specified in the order. A criminal justice agency
811 may not seal any record pertaining to such additional arrests if
812 the order to seal does not articulate the intention of the court
813 to seal records pertaining to more than one arrest. This section
814 does not prevent the court from ordering the sealing of only a
815 portion of a criminal history record pertaining to one arrest or
816 one incident of alleged criminal activity. Notwithstanding any
817 law to the contrary, a criminal justice agency may comply with
818 laws, court orders, and official requests of other jurisdictions
819 relating to sealing, correction, or confidential handling of
820 criminal history records or information derived therefrom. This
821 section does not confer any right to the sealing of any criminal
822 history record, and any request for sealing a criminal history
823 record may be denied at the sole discretion of the court.

824 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
825 history record of a minor or an adult which is ordered sealed by
826 a court of competent jurisdiction pursuant to this section is
827 confidential and exempt from the provisions of s. 119.07(1) and
828 s. 24(a), Art. I of the State Constitution and is available only
829 to the person who is the subject of the record, to the subject's
830 attorney, to criminal justice agencies for their respective
831 criminal justice purposes, which include conducting a criminal
832 history background check for approval of firearms purchases or

833 transfers as authorized by state or federal law, to judges in
834 the state courts system for the purpose of assisting them in
835 their case-related decisionmaking responsibilities, as set forth
836 in s. 943.053(5), or to those entities set forth in
837 subparagraphs (a)1., 4., 5., 6., and 8., ~~and 8.~~ for their
838 respective licensing, access authorization, and employment
839 purposes.

840 (a) The subject of a criminal history record sealed under
841 this section or under other provisions of law, including former
842 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
843 deny or fail to acknowledge the arrests covered by the sealed
844 record, except when the subject of the record:

- 845 1. Is a candidate for employment with a criminal justice
846 agency;
- 847 2. Is a defendant in a criminal prosecution;
- 848 3. Concurrently or subsequently petitions for relief under
849 this section, s. 943.0583, or s. 943.0585;
- 850 4. Is a candidate for admission to The Florida Bar;
- 851 5. Is seeking to be employed or licensed by or to contract
852 with the Department of Children and Families, the Division of
853 Vocational Rehabilitation within the Department of Education,
854 the Agency for Health Care Administration, the Agency for
855 Persons with Disabilities, the Department of Health, the
856 Department of Elderly Affairs, or the Department of Juvenile
857 Justice or to be employed or used by such contractor or licensee
858 in a sensitive position having direct contact with children, the

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859 disabled, or the elderly;

860 6. Is seeking to be employed or licensed by the Department
861 of Education, a ~~any~~ district school board, a ~~any~~ university
862 laboratory school, a ~~any~~ charter school, a ~~any~~ private or
863 parochial school, or a ~~any~~ local governmental entity that
864 licenses child care facilities; ~~or~~

865 7. Is attempting to purchase a firearm from a licensed
866 importer, licensed manufacturer, or licensed dealer and is
867 subject to a criminal history check under state or federal law;
868 or

869 8. Is seeking to be licensed by the Bureau of License
870 Issuance of the Division of Licensing within the Department of
871 Agriculture and Consumer Services to carry a concealed weapon or
872 concealed firearm. This subparagraph applies only in the
873 determination of an applicant's eligibility under s. 790.06.

874 (b) Subject to the exceptions in paragraph (a), a person
875 who has been granted a sealing under this section, former s.
876 893.14, former s. 901.33, or former s. 943.058 may not be held
877 under any provision of law of this state to commit perjury or to
878 be otherwise liable for giving a false statement by reason of
879 such person's failure to recite or acknowledge a sealed criminal
880 history record.

881 (c) Information relating to the existence of a sealed
882 criminal record provided in accordance with the provisions of
883 paragraph (a) is confidential and exempt from the provisions of
884 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,

885 | except that the department shall disclose the sealed criminal
 886 | history record to the entities set forth in subparagraphs (a)1.,
 887 | 4., 5., 6., and 8.~~and 8.~~ for their respective licensing,
 888 | access authorization, and employment purposes. It is unlawful
 889 | for any employee of an entity set forth in subparagraph (a)1.,
 890 | subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
 891 | subparagraph (a)8. ~~subparagraph (a)8.~~ to disclose information
 892 | relating to the existence of a sealed criminal history record of
 893 | a person seeking employment, access authorization, or licensure
 894 | with such entity or contractor, except to the person to whom the
 895 | criminal history record relates or to persons having direct
 896 | responsibility for employment, access authorization, or
 897 | licensure decisions. Any person who violates the provisions of
 898 | this paragraph commits a misdemeanor of the first degree,
 899 | punishable as provided in s. 775.082 or s. 775.083.

900 | Section 20. Section 205.1969, Florida Statutes, is amended
 901 | to read:

902 | 205.1969 Health studios; consumer protection.—A county or
 903 | municipality may not issue or renew a business tax receipt for
 904 | the operation of a health studio pursuant to ss. 501.012-501.019
 905 | ~~or ballroom dance studio pursuant to s. 501.143,~~ unless such
 906 | business exhibits a current license, registration, or letter of
 907 | exemption from the Department of Agriculture and Consumer
 908 | Services.

909 | Section 21. Subsection (6) of section 501.015, Florida
 910 | Statutes, is amended to read:

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911 501.015 Health studios; registration requirements and
912 fees.—Each health studio shall:

913 (6) Be considered a new health studio and shall be subject
914 to the requirements of s. 501.016 each time the health studio
915 changes ownership or, in the case of corporate ownership, each
916 time the stock ownership is changed so as to effectively put the
917 health studio under new management or control, notwithstanding
918 the provisions of s. 501.016(8) ~~501.016(6)~~. A change of
919 ownership does not occur within the meaning of this subsection
920 if:

921 (a) Substantially the same stockholders form a new
922 corporate entity;

923 (b) In the opinion of the department, the change does not
924 effectively place the health studio under new management and
925 control; and

926 (c) The health studio has a satisfactory complaint history
927 with the department.

928 Section 22. This act shall take effect July 1, 2014.