

By the Committee on Business Regulation & Consumer Affairs
and Representatives Ogles, Brown, Dockery, Chestnut, Martinez,
Lynn and Crist

1 A bill to be entitled
2 An act relating to consumer protection;
3 amending ss. 496.405, 496.419, 496.420, and
4 496.424, F.S.; revising the provisions of the
5 Solicitation of Contributions Act to revise the
6 authority of the Department of Agriculture and
7 Consumer Services to make rules; establishing a
8 fee; providing authority of the department with
9 respect to registration and solicitation
10 requirements; amending ss. 501.013, 501.014,
11 501.015, 501.016, and 501.019, F.S.; revising
12 provisions of law regulating health studios to
13 provide an exemption from regulation for
14 certain country clubs, to authorize rules, to
15 eliminate a penalty for certain late
16 registrations, to require the registration
17 number in certain printed material, to revise
18 provisions relating to security requirements,
19 and to revise penalties with respect to health
20 studio violations; amending s. 501.021, F.S.;
21 deleting the definition of "division" with
22 respect to home solicitation sales; amending s.
23 501.022, F.S.; deleting language with respect
24 to persons engaging in home solicitation sales
25 in more than one county in the state to
26 eliminate certain certificates; amending s.
27 501.052, F.S.; providing that the Attorney
28 General or state attorney shall enforce the
29 act; amending s. 501.143, F.S.; providing for
30 registration fees with respect to dance
31 studios; eliminating reference to such fees set

1 by the department; providing for penalties for
2 violations of rules or orders adopted pursuant
3 to such rules; revising language with respect
4 to rulemaking authority; amending s. 501.605,
5 F.S.; providing for the fee for licensing of
6 commercial telephone sellers; deleting
7 reference to the authority of the department to
8 set such fees; amending s. 501.607, F.S.;
9 revising language with respect to licensure of
10 salespersons; eliminating reference to the
11 department to set license fees; amending s.
12 501.612, F.S.; revising language with respect
13 to grounds for denial of licensure; amending s.
14 501.626, F.S.; revising language with respect
15 to rulemaking authority; amending s. 539.001,
16 F.S.; revising the Florida Pawnbroking Act to
17 provide definitions, to provide that local
18 occupational licenses may not be issued without
19 providing proof of a state license, revising
20 language with respect to administrative
21 penalties; providing for a notice of
22 noncompliance rather than a letter of concern,
23 and to provide for rulemaking authority;
24 amending ss. 559.801-559.813, F.S.; revising
25 the Sale of Business Opportunities Act;
26 revising definitions; revising language with
27 respect to the disclosure statement; providing
28 increased requirements with respect to required
29 filings with the department; requiring that
30 written contracts be given to the purchaser at
31 a certain number of days before signing;

1 revising provisions with respect to remedies
2 and enforcement; providing for rulemaking
3 authority; amending ss. 559.903, 559.904,
4 559.905, 559.921, and 559.9221, F.S.; revising
5 the Florida Motor Vehicle Repair Act; revising
6 definitions; revising the registration fee
7 schedule; revising requirements with respect to
8 registration certificates; providing criteria
9 for denying or refusing to renew the
10 registration of a motor vehicle repair shop;
11 providing for additional remedies; revising
12 language with respect to the Motor Vehicle
13 Repair Advisory Council; creating s. 559.92201,
14 F.S.; providing for rulemaking authority;
15 amending s. 559.927, F.S.; revising the
16 definition of the term "seller of travel" with
17 respect to the Florida Sellers of Travel Act;
18 amending s. 559.928, F.S.; providing
19 registration fees; requiring an annual
20 affidavit and filing fee by agents; amending s.
21 559.929, F.S.; revising language with respect
22 to security requirements; amending s. 559.9295,
23 F.S.; providing for the effect of the
24 submission of vacation certificate documents;
25 providing for alternative document filing;
26 establishing the timeframe for the department
27 to respond with respect to document
28 submissions; amending s. 559.9335, F.S.;
29 providing for additional acts which are
30 violations; revising language with respect to
31 rules; amending s. 559.9355, F.S.; revising

1 language with respect to administrative
2 remedies and penalties; repealing s. 559.8015,
3 F.S., relating to applicability to advertisers
4 of business opportunities; providing an
5 effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Paragraph (b) of subsection (4) and
10 subsection (7) of section 496.405, Florida Statutes, are
11 amended to read:

12 496.405 Registration statements by charitable
13 organizations and sponsors.--

14 (4)

15 (b) A charitable organization or sponsor which fails
16 to file a registration statement by the due date may be
17 assessed an additional fee for such late filing. The late
18 filing fee shall be ~~must be established by rule of the~~
19 ~~department and must not exceed~~ \$25 for each month or part of a
20 month after the date on which the annual renewal statement and
21 financial report were due to be filed with the department.

22 (7) The department must examine each initial
23 registration statement or annual renewal statement and the
24 supporting documents filed by a charitable organization or
25 sponsor and shall determine whether the registration
26 requirements are satisfied. Within 10 working days after its
27 receipt of a statement, the department must examine the
28 statement, notify the applicant of any apparent errors or
29 omissions, and request any additional information the
30 department is allowed by law to require. Failure to correct an
31 error or omission or to supply additional information is not

1 grounds for denial of the initial registration or annual
2 renewal statement unless the department has notified the
3 applicant within the 10-working-day ~~10-day~~ period. The
4 department must approve or deny each statement, or must notify
5 the applicant that the activity for which he seeks
6 registration is exempt from the registration requirement,
7 within 10 working days after receipt of the initial
8 registration or annual renewal statement or the requested
9 additional information or correction of errors or omissions.
10 Any statement that is not approved or denied within 10 working
11 days after receipt of the requested additional information or
12 correction of errors or omissions is approved. Within 7
13 working days after receipt of a notification that the
14 registration requirements are not satisfied, the charitable
15 organization or sponsor may request a hearing. The hearing
16 must be held within 7 working days after receipt of the
17 request, and any recommended order, if one is issued, must be
18 rendered within 3 working days of the hearing. The final order
19 must then be issued within 2 working days after the
20 recommended order. If a recommended order is not issued, the
21 final order must be issued within 5 working days after the
22 hearing. The proceedings must be conducted in accordance with
23 chapter 120, except that the time limits and provisions set
24 forth in this subsection prevail to the extent of any
25 conflict.

26 Section 2. Subsection (1), paragraphs (a), (b), and
27 (c) of subsection (4), and subsections (5), (8), and (9) of
28 section 496.419, Florida Statutes, are amended to read:

29 496.419 Powers of the department.--

30 (1) The department may conduct an investigation of any
31 person or organization whenever there is an appearance, either

1 upon complaint or otherwise, that a violation of ss.
2 496.401-496.424 or s. 496.426 or of any rule adopted or of any
3 order issued pursuant thereto has been committed or is about
4 to be committed.

5 (4) The department may enter an order imposing one or
6 more of the penalties set forth in subsection (5) if the
7 department finds that a charitable organization, sponsor,
8 professional fundraising consultant, or professional
9 solicitor, or an agent, servant, or employee thereof has:

10 (a) Violated or is operating in violation of any of
11 the provisions of ss. 496.401-496.424 or s. 496.426 or of the
12 rules adopted or orders issued thereunder;

13 (b) Made a material false statement in an application,
14 statement, or report required to be filed under ss.
15 496.401-496.424 or s. 496.426;

16 (c) Refused or failed, or any of its principal
17 officers has refused or failed, after notice, to produce any
18 records of such organization or to disclose any information
19 required to be disclosed under ss. 496.401-496.424 or s.
20 496.426 or the rules of the department; or

21 (5) Upon a finding as set forth in subsection (4), the
22 department may enter an order doing one or more of the
23 following:

24 (a) Issuing a notice of noncompliance pursuant to
25 s. 120.695; ~~of a letter of concern; and~~

26 (b) Issuing a cease and desist order that directs that
27 the person cease and desist specified fundraising activities;

28 (c) Refusing to register or canceling or suspending a
29 registration;

30
31

1 (d) Placing the registrant on probation for a period
2 of time, subject to such conditions as the department may
3 specify;

4 ~~(e)(f)~~ Canceling an exemption granted under s.
5 496.406; ~~and~~—

6 ~~(f)(a)~~ Imposing an administrative fine not to exceed
7 \$1,000 for each act or omission which constitutes a violation
8 of ss. 496.401-496.424 or s. 496.426 or a rule or order. ~~+~~

9
10 With respect to a section 501(c)(3) organization, the penalty
11 imposed pursuant to this subsection shall not exceed \$500 per
12 violation. The penalty shall be the entire amount per
13 violation and is not to be interpreted as a daily penalty.

14 (8) The department shall report any criminal violation
15 of ss. 496.401-496.424 or s. 496.426 to the proper prosecuting
16 authority for prompt prosecution.

17 (9) All fines collected by the department under
18 subsection (5) must be paid into the General Inspection Trust
19 Fund to be used to pay the costs incurred in administering and
20 enforcing ss. 496.401-496.424 or s. 496.426. Money deposited
21 in the fund and allocated for the purposes of ss.
22 496.401-496.424 or s. 496.426 must be disbursed by the
23 department for the funding of activities conducted by the
24 department pursuant to ss. 496.401-496.424 or s. 496.426,
25 inclusive.

26 Section 3. Subsections (1) and (3) of section 496.420,
27 Florida Statutes, are amended to read:

28 496.420 Civil remedies and enforcement.--

29 (1) In addition to other remedies authorized by law,
30 the Department of Legal Affairs may bring a civil action in
31 circuit court to enforce ss. 496.401-496.424 or s. 496.426.

1 Upon a finding that any person has violated any of these
2 sections, a court may make any necessary order or enter a
3 judgment including, but not limited to, a temporary or
4 permanent injunction, a declaratory judgment, the appointment
5 of a master or receiver, the sequestration of assets, the
6 reimbursement of persons from whom contributions have been
7 unlawfully solicited, the distribution of contributions in
8 accordance with the charitable or sponsor purpose expressed in
9 the registration statement or in accordance with the
10 representations made to the person solicited, the
11 reimbursement of the department for investigative costs and of
12 the Department of Legal Affairs for attorney's fees and costs,
13 including investigative costs, and any other equitable relief
14 the court finds appropriate. Upon a finding that any person
15 has violated any provision of ss. 496.401-496.424 or s.
16 496.426 with actual knowledge or knowledge fairly implied on
17 the basis of objective circumstances, a court may enter an
18 order imposing a civil penalty in an amount not to exceed
19 \$10,000 per violation.

20 (3) The Department of Legal Affairs may terminate an
21 investigation or an action upon acceptance of a person's
22 written assurance of voluntary compliance with ss.
23 496.401-496.424 or s. 496.426. Acceptance of an assurance may
24 be conditioned on commitment to reimburse donors or to take
25 other appropriate corrective action. An assurance is not
26 evidence of a prior violation of any of these sections.
27 However, unless an assurance has been rescinded by agreement
28 of the parties or voided by a court for good cause, subsequent
29 failure to comply with the terms of an assurance is prima
30 facie evidence of a violation of one or more of these
31 sections.

1 Section 4. Section 496.424, Florida Statutes, is
2 amended to read:

3 496.424 Rulemaking authority.--The department has the
4 authority to ~~may~~ adopt rules pursuant to chapter 120 to
5 implement necessary to effectuate the purposes of ss.
6 496.401-496.424 or s. 496.426.

7 Section 5. Subsection (5) is added to section 501.013,
8 Florida Statutes, to read:

9 501.013 Health studios; exemptions.--The following
10 businesses or activities may be declared exempt from the
11 provisions of ss. 501.012-501.019 upon the filing of an
12 affidavit with the department establishing that the stated
13 qualifications are met:

14 (5) A country club that has as its primary function
15 the provision of a social life and recreational amenities to
16 its members, and for which a program of physical exercise is
17 merely incidental to membership. As used in this subsection,
18 the term "country club" means a facility that offers its
19 members a variety of services that may include, but need not
20 be limited to, social activities; dining, banquet, catering,
21 and lounge facilities; swimming; yachting; golf; tennis; card
22 games such as bridge and canasta; and special programs for
23 members' children.

24 Section 6. Section 501.014, Florida Statutes, is
25 amended to read:

26 501.014 Health studios; powers and duties of the
27 department.--

28 (1) The department may, at any time during business
29 hours, enter any business location of a health studio required
30 to be registered pursuant to ss. 501.012-501.019, examine the
31 books or records of the health studio, and subpoena all

1 necessary records when the department has reason to believe a
2 violation of the provisions of ss. 501.012-501.019 has
3 occurred.

4 (2) The department has the authority to adopt rules
5 pursuant to chapter 120 to implement ss. 501.012-501.019.

6 ~~(3)(2)~~ The department shall:

7 ~~(a) Promulgate such rules as may be necessary to carry~~
8 ~~out the provisions of ss. 501.012-501.019.~~

9 ~~(a)(b)~~ Provide each business location of a health
10 studio with a registration number at the time of registration.

11 ~~(b)(c)~~ Provide a certificate of registration which
12 prominently displays the registration number.

13 ~~(c)(d)~~ Place all fees and fines collected pursuant to
14 ss. 501.012-501.019 in the General Inspection Trust Fund of
15 Florida as created in s. 570.20.

16 Section 7. Subsections (4) and (6) of section 501.015,
17 Florida Statutes, are amended to read:

18 501.015 Health studios; registration requirements and
19 fees.--Each health studio shall:

20 ~~(4) Be subject to a penalty fee not to exceed \$10 per~~
21 ~~day up to \$100 maximum per business location if registration~~
22 ~~has not been renewed within 30 days after its expiration date.~~

23 (6) Include the registration number issued by the
24 department in all printed advertisements, contracts, and
25 publications utilized by the health studio for a business
26 location.

27 Section 8. Section 501.016, Florida Statutes, is
28 amended to read:

29 501.016 Health studios; security requirements.--Each
30 ~~Every~~ health studio that ~~which~~ sells contracts for health
31 studio services shall, ~~during any period before opening and~~

1 ~~for a period of 5 years after commencement of business,~~meet
2 the following requirements:

3 (1) Each health studio shall maintain for each
4 separate business location a bond issued by a surety company
5 admitted to do business in this state. The principal sum of
6 the bond shall be \$50,000, and the bond, when required, shall
7 be obtained before an occupational license may be issued under
8 chapter 205. Upon issuance of an occupational license, the
9 licensing authority shall immediately notify the department of
10 such issuance in a manner established by the department by
11 rule. The bond shall be in favor of the state for the benefit
12 of any person injured as a result of a violation of ss.
13 501.012-501.019. The aggregate liability of the surety to all
14 persons for all breaches of the conditions of the bonds
15 provided herein shall in no event exceed the amount of the
16 bond. The original surety bond required by this section shall
17 be filed with the department.

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

21 (a) An irrevocable letter of credit from any foreign
22 or domestic bank in the amount of \$50,000; or

23 (b) A guaranty agreement which is secured by a
24 certificate of deposit in the amount of \$50,000.

25
26 The original letter of credit or certificate of deposit
27 submitted in lieu of the bond shall be filed with the
28 department. The department shall decide whether the security
29 furnished in lieu of bond by the health studio is in
30 compliance with the requirements of this section.

31

1 (3) A health studio which sells contracts for future
2 health studio services and which collects direct payment on a
3 monthly basis for those services shall be exempt from the
4 security requirements of subsections (1) and (2) provided that
5 any service fee charged is a reasonable and fair service fee.
6 The number of monthly payments in such a contract shall be
7 equal to the number of months in the contract. The contract
8 shall conform to all the requirements for future health studio
9 services contracts as specified in ss. 501.012-501.019 and
10 shall specify in the terms of the contract the charges to be
11 assessed for those health studio services.

12 (4) If the health studio furnishes the department with
13 evidence satisfactory to the department that the aggregate
14 dollar amount of all current outstanding contracts of the
15 health studio is less than \$5,000, the department may, at its
16 discretion, reduce the principal amount of the surety bond or
17 other sufficient financial responsibility required in
18 subsections (1) and (2) to a sum of not less than \$10,000.
19 However, at any time the aggregate dollar amount of such
20 contracts exceeds \$5,000, the health studio shall so notify
21 the department and shall thereupon provide the bond or other
22 documentation as required in subsections (1) and (2). Health
23 studios whose bonds have been reduced must provide the
24 department with an annually updated list of members. Failure
25 to file an annual report will result in the department raising
26 the security requirement to \$50,000.

27 (5) Each health studio shall furnish the department
28 with a copy of the escrow account which would contain all
29 funds received for future consumer services, whether by
30 contract or otherwise, sold prior to the business location's
31

1 full operation and specify a date certain for opening, if such
2 an escrow account is established.

3 (6) Subsections (1) and (2) shall not apply to a
4 health studio that has been operating continuously under the
5 same ownership and control for the most recent 5-year period
6 in compliance with ss. 501.012-501.019 and the rules adopted
7 thereunder and that has not had any civil, criminal, or
8 administrative adjudication against it by any state or federal
9 agency; and that has a satisfactory consumer complaint
10 history. As used in this subsection, the term "satisfactory
11 consumer complaint history" means that no unresolved consumer
12 complaints regarding the health studio are on file with the
13 department. A consumer complaint is unresolved if a health
14 studio has not responded to the department's efforts to
15 mediate the complaint or if there has been an adjudication
16 that the health studio has violated ss. 501.012-501.019 or the
17 rules adopted thereunder. ~~Those health studios that have been~~
18 ~~in business continuously since October 1, 1985, are exempt~~
19 ~~from the requirements of subsections (1) and (2). ~~Those~~~~
20 ~~health studios that have been in business continuously since~~
21 ~~October 1, 1986, are exempt effective October 1, 1991, from~~
22 ~~the requirements of subsections (1) and (2). ~~Those health~~~~
23 ~~studios that have been in business continuously since October~~
24 ~~1, 1987, are exempt effective October 1, 1992, from the~~
25 ~~requirements of subsections (1) and (2). ~~Those health studios~~~~
26 ~~that have been in business continuously since October 1, 1988,~~
27 ~~are exempt effective October 1, 1993, from the requirements of~~
28 ~~subsections (1) and (2). ~~Those health studios that have been~~~~
29 ~~in business continuously since October 1, 1989, are exempt~~
30 ~~effective October 1, 1994, from the requirements of~~
31

1 ~~subsections (1) and (2).~~Such exemption extends to all current
2 and future business locations of an exempt health studio.

3 (7) A business, otherwise defined as a health studio,
4 which sells a single contract of 30 days or less to any member
5 without any option for renewal or any other condition which
6 establishes any right in the member beyond the term of such
7 contract is exempt from the provisions of this section. This
8 exemption shall not apply if the business offers any other
9 health studio contract of whatever duration at any time during
10 or prior to the existence of such single contract of 30 days
11 or less.

12 (8) Except in the case of a natural disaster or an act
13 of God, a health studio that is exempt from the requirements
14 of subsections (1) and (2), but ~~that~~ ~~which~~ has no business
15 locations open for 14 consecutive days, waives ~~shall be deemed~~
16 ~~to have waived~~ its exemption and is ~~shall be~~ considered to be
17 a new health studio for the purposes of ss. 501.012-501.019.

18 Section 9. Subsection (4) of section 501.019, Florida
19 Statutes, is amended to read:

20 501.019 Health studios; penalties.--

21 (4)(a) The department may enter an order imposing one
22 or more of the penalties set forth in paragraph (b) if the
23 department finds that a health studio:

24 1. Violated or is operating in violation of any of the
25 provisions of this part or of the rules adopted or orders
26 issued thereunder;

27 2. Made a material false statement in any application,
28 document, or record required to be submitted or retained under
29 this part;

30 3. Refused or failed, or any of its principal officers
31 has refused or failed, after notice, to produce any document

1 or record or disclose any information required to be produced
2 or disclosed under this part or the rules of the department;
3 4. Made a material false statement in response to any
4 request or investigation by the department, the Department of
5 Legal Affairs, or the state attorney; or
6 5. Has intentionally defrauded the public through
7 dishonest or deceptive means. ~~The department may impose~~
8 administrative fines as prescribed below:
9 (a) For a violation of s. 501.016, a fine not to
10 exceed \$5,000 per violation.
11 (b) Upon a finding as set forth in paragraph (a), the
12 department may enter an order doing one or more of the
13 following:
14 1. Issuing a notice of noncompliance pursuant to s.
15 120.695.
16 2. For a violation of s. 501.015 or s. 501.016,
17 imposing an administrative fine not to exceed \$5,000 per
18 violation.
19 3. For a violation of s. 501.013, s. 501.017, or s.
20 501.018, imposing an administrative a fine not to exceed \$500
21 per violation.
22 4. Directing that the health studio cease and desist
23 specified activities.
24 5. Refusing to register or revoking or suspending a
25 registration.
26 6. Placing the registrant on probation for a period of
27 5 years, subject to such conditions as the department may
28 specify by rule.
29 (c) The administrative proceedings which could result
30 in the entry of an order imposing any of the penalties
31 specified in paragraph (b) shall be conducted in accordance

1 with chapter 120 ~~For a violation of s. 501.015, a fine not to~~
2 ~~exceed \$100 per violation.~~

3 Section 10. Section 501.021, Florida Statutes, is
4 amended to read:

5 501.021 Home solicitation sale; definitions.--As used
6 in ss. 501.021-501.055:

7 ~~(1) "Division" means the Division of Consumer Services~~
8 ~~of the Department of Agriculture and Consumer Services.~~

9 (1)~~(2)~~ "Home solicitation sale" means a sale, lease,
10 or rental of consumer goods or services with a purchase price
11 in excess of \$25 which includes all interest, service charges,
12 finance charges, postage, freight, insurance, and service or
13 handling charges, whether under single or multiple contracts,
14 made pursuant to an installment contract, a loan agreement,
15 other evidence of indebtedness, or a cash transaction or other
16 consumer credit transaction, in which:

17 (a) The seller or a person acting for him engages in a
18 personal solicitation of the sale, lease, or rental at a place
19 other than at the seller's fixed location business
20 establishment where goods or services are offered or exhibited
21 for sale, lease, or rental, and

22 (b) The buyer's agreement or offer to purchase is
23 given to the seller and the sale, lease, or rental is
24 consummated at a place other than at the seller's fixed
25 location business establishment,
26
27 including a transaction unsolicited by the consumer and
28 consummated by telephone and without any other contact between
29 the buyer and the seller or its representative prior to
30 delivery of the goods or performance of the services. It does
31 not include a sale, lease, or rental made at any fair or

1 similar commercial exhibit or a sale, lease, or rental that
2 results from a request for specific goods or services by the
3 purchaser or lessee or a sale made by a motor vehicle dealer
4 licensed under s. 320.27 which occurs at a location or
5 facility open to the general public or to a designated group.

6 (2)~~(3)~~ "Business day" means any calendar day except
7 Sunday or a federal holiday ~~the following business holidays:~~
8 ~~New Year's Day, Washington's Birthday, Memorial Day,~~
9 ~~Independence Day, Labor Day, Columbus Day, Veterans' Day,~~
10 ~~Thanksgiving Day, and Christmas Day.~~

11 (3)~~(4)~~ "Future delivery" means delivery more than 3
12 business days after the buyer signs an agreement or offer to
13 purchase.

14 Section 11. Paragraph (a) of subsection (1) and
15 subsections (6), (8), and (9) of section 501.022, Florida
16 Statutes, are amended to read:

17 501.022 Home solicitation sale; permit required.--

18 (1)(a) It is unlawful for any person to conduct any
19 home solicitation sale, as defined in s. 501.021~~(2)~~, or to
20 supervise excluded minors conducting such sales provided in
21 subparagraph (b)5., in this state without first obtaining a
22 valid home solicitation sale permit as provided in this
23 section.

24 (6) The issuing clerk of the circuit court for the
25 county shall notify each applicant or permitholder of a
26 decision to deny, suspend, or revoke a permit by certified
27 mail sent to any one of the last addresses submitted by the
28 applicant or permitholder. ~~A copy of the notice shall be sent~~
29 ~~to the division.~~

30 ~~(8) Any person who intends to engage in home~~
31 ~~solicitation sales in more than one county or on a statewide~~

1 ~~basis shall first obtain a home solicitation sale permit from~~
2 ~~the clerk of the circuit court for the county in the county~~
3 ~~where the applicant's fixed location business establishment is~~
4 ~~located or, if the applicant has no such location in this~~
5 ~~state, from any clerk of the circuit court of the applicant's~~
6 ~~choice. The holder of a county home solicitation sale permit~~
7 ~~may register said permit with the division, and after receipt~~
8 ~~of a reasonable fee to be established by the division and~~
9 ~~verification of the validity of the permit, the division shall~~
10 ~~issue a certificate which shall permit the holder to solicit~~
11 ~~on a statewide basis. A certificate issued hereunder shall~~
12 ~~expire on the expiration date of the permit registered with~~
13 ~~the division.~~

14 (8)~~(9)~~ Every permitholder shall carry the permit and
15 certificate required by this section at all times while
16 engaged in home solicitation sales and shall display the same
17 to all prospective buyers before initiating the solicitation
18 of a sale, lease, or rental.

19 Section 12. Section 501.052, Florida Statutes, is
20 amended to read:

21 501.052 Home solicitation sale; enforcement authority;
22 injunctive relief.--~~The division shall investigate any~~
23 ~~complaints received concerning violations of ss.~~
24 ~~501.021-501.055 and report the results of its investigation to~~
25 ~~the Attorney General or state attorney, and it may institute~~
26 ~~proceedings to enjoin any person found by the division to be~~
27 ~~violating the provisions of ss. 501.021-501.055.~~

28 Section 13. Paragraph (d) of subsection (3),
29 paragraphs (a), (b), (c), and (e) of subsection (7), and
30 subsection (12) of section 501.143, Florida Statutes, are
31 amended to read:

1 501.143 Dance Studio Act.--

2 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.--

3 (d) Registration fees shall be ~~set by department rule~~
4 ~~in an amount equal to the costs to the department of~~
5 ~~implementing and enforcing this section. However, such fee~~
6 ~~shall be based on the number of clients and may not be greater~~
7 ~~than \$300 per year for each dance studio location per~~
8 ~~registrant.~~ All amounts collected shall be deposited in the
9 General Inspection Trust Fund of the Department of Agriculture
10 and Consumer Services for the administration of this section.

11 (7) PENALTIES; REMEDIES.--The following penalties and
12 remedies are available for enforcement of the provisions of
13 this section:

14 (a) The department shall have administrative authority
15 to issue a notice of noncompliance pursuant to s. 120.695 and
16 to suspend or revoke the registration of any ballroom dance
17 studio that violates any of the provisions of this section or
18 the rules adopted or orders issued pursuant to such rules ~~of~~
19 ~~the department.~~ Such ballroom dance studio may not engage in
20 business while the registration is revoked or suspended.

21 (b) The department may impose an administrative fine
22 not to exceed \$5,000 per violation against any ballroom dance
23 studio that violates any of the provisions of this section or
24 the rules adopted or orders issued pursuant to this section.

25 (c) Notwithstanding the provisions of subsection (5),
26 the department may require any ballroom dance studio that has
27 operated or is operating in violation of any of the provisions
28 of this section or the rules adopted or orders issued pursuant
29 to such rules ~~of the department~~ to post security with the
30 department in an amount not to exceed \$25,000.

31

1 (e) The enforcing authority may seek a civil penalty
2 not to exceed \$5,000 for each violation of this section or the
3 rules adopted or orders issued pursuant to such rules and may
4 institute a civil action in circuit court to recover any
5 penalties or damages allowed in this section and for
6 injunctive relief to enforce compliance with this section or
7 any rule or order of the department.

8 (12) RULEMAKING AUTHORITY.--The department has the
9 authority to adopt ~~shall promulgate such rules pursuant to~~
10 ~~chapter 120 to implement as may be necessary to carry out the~~
11 ~~provisions of this section.~~

12 Section 14. Paragraph (b) of subsection (5) of section
13 501.605, Florida Statutes, 1996 Supplement, is amended to
14 read:

15 501.605 Licensure of commercial telephone sellers.--

16 (5) An application filed pursuant to this part must be
17 verified and accompanied by:

18 (b) A fee for licensing in the amount of, ~~to be set by~~
19 ~~rule of the department, sufficient to cover the administrative~~
20 ~~costs of this part, but not to exceed \$1,500.~~ The fee shall
21 be deposited into the General Inspection Trust Fund.

22 Section 15. Paragraphs (d) and (e) of subsection (1)
23 and paragraph (b) of subsection (2) of section 501.607,
24 Florida Statutes, are amended to read:

25 501.607 Licensure of salespersons.--

26 (1) An applicant for a license as a salesperson must
27 submit to the department, in such form as it prescribes, a
28 written application for a license. The application must set
29 forth the following information:

30 (d) Whether the applicant, regardless of conviction,
31 has previously been arrested for, convicted or found guilty

1 of, has entered a plea of guilty or a plea of nolo contendere
2 to, or is under indictment or information for, a felony and,
3 if so, the nature of the felony. ~~Conviction includes a~~
4 ~~finding of guilt where adjudication has been withheld.~~

5 (e) Whether the applicant, regardless of adjudication,
6 has previously been convicted or found guilty of, has entered
7 a plea of guilty or a plea of nolo contendere to, or is under
8 indictment or information for, racketeering or any offense
9 involving fraud, theft, embezzlement, fraudulent conversion,
10 or misappropriation of property. ~~Conviction includes a~~
11 ~~finding of guilt where adjudication has been withheld.~~

12 (2) An application filed pursuant to this section must
13 be verified and be accompanied by:

14 (b) A fee for licensing in the amount of, ~~to be set by~~
15 ~~rule of the department, sufficient to cover the administrative~~
16 ~~costs of this part, but not to exceed \$50 per salesperson.~~
17 The fee shall be deposited into the General Inspection Trust
18 Fund. The fee for licensing may be paid after the application
19 is filed, but must be paid within 14 days after the applicant
20 begins work as a salesperson.

21 Section 16. Section 501.612, Florida Statutes, 1996
22 Supplement, is amended to read:

23 501.612 Grounds for denial of licensure.--

24 (1) The department may enter an order directing that
25 one or more of the actions set forth in subsection (2) be
26 taken if the department finds that a commercial telephone
27 seller or salesperson or any person applying for licensure as
28 a commercial telephone seller or salesperson, including, but
29 not limited to, owners, operators, officers, directors,
30 partners, or other individuals engaged in the management
31

1 activities of a business entity ~~deny licensure to any~~
2 ~~applicant who:~~
3 (a) Has, regardless of adjudication, ~~been convicted or~~
4 found guilty of, or has entered a plea of guilty or a plea of
5 nolo contendere to, ~~racketeering or any offense involving~~
6 ~~fraud, theft, embezzlement, fraudulent conversion, or~~
7 ~~misappropriation of property, or any other crime involving~~
8 ~~moral turpitude;. Conviction includes a finding of guilt~~
9 ~~where adjudication has been withheld or where a plea of nolo~~
10 ~~contendere has been entered;~~
11 (b) Has, regardless of adjudication, been convicted or
12 found guilty of, or has entered a plea of guilty or a plea of
13 nolo contendere to, any felony;
14 (c) ~~(b)~~ Has had entered against him or any business for
15 which he has worked or been affiliated, an injunction, a
16 temporary restraining order, or a final judgment or order,
17 including a stipulated judgment or order, an assurance of
18 voluntary compliance, or any similar document, in any civil or
19 administrative action involving racketeering, fraud, theft,
20 embezzlement, fraudulent conversion, or misappropriation of
21 property or the use of any untrue or misleading representation
22 in an attempt to sell or dispose of real or personal property
23 or the use of any unfair, unlawful, or deceptive trade
24 practice;
25 (d) ~~(c)~~ Is subject to or has worked or been affiliated
26 with any company which is, or ever has been, subject to any
27 injunction, temporary restraining order, or final judgment or
28 order, including a stipulated judgment or order, an assurance
29 of voluntary compliance, or any similar document, or any
30 restrictive court order relating to a business activity as the
31 result of any action brought by a governmental agency,

1 including any action affecting any license to do business or
2 practice an occupation or trade;
3 (e)~~(d)~~ Has at any time during the previous 7 years
4 filed for bankruptcy, been adjudged bankrupt, or been
5 reorganized because of insolvency;
6 (f)~~(e)~~ Has been a principal, director, officer, or
7 trustee of, or a general or limited partner in, or had
8 responsibilities as a manager in, any corporation,
9 partnership, joint venture, or other entity that filed the
10 bankruptcy, was adjudged bankrupt, or was reorganized because
11 of insolvency within 1 year after the person held that
12 position;
13 (g)~~(f)~~ Has been previously convicted of or found to
14 have been acting as a salesperson or commercial telephone
15 seller without a license or whose licensure has previously
16 been refused, revoked, or suspended in any jurisdiction;
17 (h)~~(g)~~ Falsifies or willfully omits any material
18 information asked for in any the application, document, or
19 record required to be submitted or retained under this part;
20 or
21 (i) Makes a material false statement in response to
22 any request or investigation by the department or the state
23 attorney;
24 (j) Refuses or fails, after notice, to produce any
25 document or record or disclose any information required to be
26 produced or disclosed under this part or the rules of the
27 department;
28 (k) Is not of good moral character; or
29 (l)~~(h)~~ Otherwise violates or is operating in violation
30 of any of the provisions of this part or of the rules adopted
31 or orders issued thereunder.

1 (2) Upon a finding as set forth in subsection (1), the
2 department may enter an order:
3 (a) Issuing a notice of noncompliance pursuant to s.
4 120.695.
5 (b) Imposing an administrative fine not to exceed
6 \$10,000 for each act or omission which constitutes a violation
7 under this part.
8 (c) Directing that the person cease and desist
9 specified activities.
10 (d) Refusing to issue or renew or revoking or
11 suspending a license.
12 (e) Placing the licensee on probation for a period of
13 time, subject to such conditions as the department may
14 specify.
15 ~~(3)(2) The administrative proceedings which could~~
16 ~~result in entry of an order under subsection (2) shall be~~
17 ~~conducted An applicant may appeal the denial or nonrenewal of~~
18 ~~a license by requesting in writing, within 30 days of receipt~~
19 ~~of the notice of denial or nonrenewal, a hearing. Said~~
20 ~~hearing shall be conducted in accordance with the provisions~~
21 ~~of chapter 120 and presided over by a hearing officer~~
22 ~~designated by the Department of Agriculture and Consumer~~
23 ~~Services. When any hearing officer conducts a hearing~~
24 ~~pursuant to the provisions of chapter 120 with respect to the~~
25 ~~issuance of a license by the Department of Agriculture and~~
26 ~~Consumer Services, the hearing officer shall submit his~~
27 ~~recommendation order to the Department of Agriculture and~~
28 ~~Consumer Services, which shall thereupon issue a final order~~
29 ~~of the Department of Agriculture and Consumer Services in~~
30 ~~accordance with the provisions of chapter 120.~~
31

1 Section 17. Section 501.626, Florida Statutes, is
2 amended to read:

3 501.626 Rulemaking power.--The department has the
4 authority to adopt ~~shall promulgate~~ rules pursuant to chapter
5 120 to implement ~~and carry out the provisions of~~ this part.

6 Section 18. Paragraphs (t) and (u) are added to
7 subsection (2), paragraph (f) is added to subsection (3),
8 paragraph (a) of subsection (4) and paragraph (b) of
9 subsection (7) are amended, and subsection (22) is added to
10 section 539.001, Florida Statutes, 1996 Supplement, to read:

11 539.001 The Florida Pawnbroking Act.--

12 (2) DEFINITIONS.--As used in this section, the term:

13 (t) "Beneficial owner" means a person who does not
14 have title to property but has rights in the property which
15 are the normal incident of owning the property.

16 (u) "Operator" means a person who has charge of a
17 corporation or company and has control of its business, or of
18 its branch establishments, divisions, or departments, and who
19 is vested with a certain amount of discretion and independent
20 judgment.

21 (3) LICENSE REQUIRED.--

22 (f) Any person applying for or renewing a local
23 occupational license to engage in business as a pawnbroker
24 must exhibit a current license from the agency before the
25 local occupational license may be issued or reissued.

26 (4) ELIGIBILITY FOR LICENSE.--

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

- 29 1. Be of good moral character;
30 2. Have a net worth of at least \$50,000 or file with
31 the agency a bond issued by a surety company qualified to do

1 business in this state in the amount of \$10,000 for each
2 license. In lieu of the bond required in this section, the
3 applicant may establish a certificate of deposit or an
4 irrevocable letter of credit in a Florida banking institution
5 in the amount of the bond. The original bond, certificate of
6 deposit, or letter of credit shall be filed with the agency,
7 and the agency shall be the beneficiary to said document. The
8 bond, certificate of deposit, or letter of credit shall be in
9 favor of the agency for the use and benefit of any consumer
10 who is injured by the fraud, misrepresentation, breach of
11 contract, financial failure, or violation of any provision of
12 this section by the pawnbroker. Such liability may be enforced
13 either by proceeding in an administrative action or by filing
14 a judicial suit at law in a court of competent jurisdiction.
15 However, in such court suit, the bond, certificate of deposit,
16 or letter of credit posted with the agency shall not be
17 amenable or subject to any judgment or other legal process
18 issuing out of or from such court in connection with such
19 lawsuit, but such bond, certificate of deposit, or letter of
20 credit shall be amenable to and enforceable only by and
21 through administrative proceedings before the agency. It is
22 the intent of the Legislature that such bond, certificate of
23 deposit, or letter of credit shall be applicable and liable
24 only for the payment of claims duly adjudicated by order of
25 the agency. The bond, certificate of deposit, or letter of
26 credit shall be payable on a pro rata basis as determined by
27 the agency, but the aggregate amount may not exceed the amount
28 of the bond, certificate of deposit, or letter of credit.

29 3. Not have been convicted of, or found guilty of, or
30 pled guilty or nolo contendere to, regardless of adjudication,
31 a felony within the last 10 years and not be acting as a

1 beneficial owner for someone who has been convicted of, or
2 found guilty of, or pled guilty or nolo contendere to,
3 regardless of adjudication, a felony within the last 10 years;
4 and

5 4. Not have been convicted of, or found guilty of, or
6 pled nolo contendere to, regardless of adjudication, a crime
7 that the agency finds directly relates to the duties and
8 responsibilities of a pawnbroker within the last 10 years, and
9 not be acting as a beneficial owner for someone who has been
10 convicted, of, or found guilty of, or pled guilty or nolo
11 contendere to, regardless of adjudication, a crime that the
12 agency finds directly relates to the duties and
13 responsibilities of a pawnbroker within the last 10 years.

14 (7) ORDERS IMPOSING PENALTIES.--

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

17 1. Issuing a notice of noncompliance pursuant to s.
18 120.695.

19 ~~2.1.~~ Imposing an administrative fine not to exceed
20 \$5,000 for each act which constitutes a violation of this
21 section or a rule or an order.

22 ~~3.2.~~ Directing that the pawnbroker cease and desist
23 specified activities.

24 ~~4.3.~~ Refusing to license or revoking or suspending a
25 license.

26 ~~5.4.~~ Placing the licensee on probation for a period of
27 time, subject to such conditions as the agency may specify.

28 ~~5. Issuing a letter of concern.~~

29 (22) RULEMAKING AUTHORITY.--The department has
30 authority to adopt rules pursuant to chapter 120 to implement
31 the provisions of this section.

1 Section 19. Paragraph (a) of subsection (1) of section
2 559.801, Florida Statutes, is amended to read:

3 559.801 Definitions.--For the purpose of ss.
4 559.80-559.815, the term:

5 (1)(a) "Business opportunity" means the sale or lease
6 of any products, equipment, supplies, or services which are
7 sold or leased to a purchaser to enable the purchaser to start
8 a business for which the purchaser is required to pay an
9 initial fee or sum of money which exceeds \$500 to the seller,
10 and in which the seller represents:

11 1. That the seller or person or entity affiliated with
12 or referred by the seller will provide locations or assist the
13 purchaser in finding locations for the use or operation of
14 vending machines, racks, display cases, currency or card
15 operated equipment, or other similar devices or
16 currency-operated amusement machines or devices on premises
17 neither owned nor leased by the purchaser or seller;

18 2. That the seller will purchase any or all products
19 made, produced, fabricated, grown, bred, or modified by the
20 purchaser using in whole or in part the supplies, services, or
21 chattels sold to the purchaser;

22 3. That the seller guarantees in writing that the
23 purchaser will derive income from the business opportunity
24 which exceeds the price paid or rent charged for the business
25 opportunity or that the seller will refund all or part of the
26 price paid or rent charged for the business opportunity, or
27 will repurchase any of the products, equipment, supplies, or
28 chattels supplied by the seller, if the purchaser is
29 unsatisfied with the business opportunity; or

30 4. That the seller will provide a sales program or
31 marketing program that will enable the purchaser to derive

1 income from the business opportunity, except that this
2 paragraph does not apply to the sale of a sales program or
3 marketing program made in conjunction with the licensing of a
4 trademark or service mark that is registered under the laws of
5 any state or of the United States.

6
7 For the purpose of subparagraph 1., the term "assist the
8 purchaser in finding locations" means, but is not limited to,
9 supplying the purchaser with names of locator companies,
10 contracting with the purchaser to provide assistance or supply
11 names, or collecting a fee on behalf of or for a locator
12 company.

13 Section 20. Paragraph (c) of subsection (11) of
14 section 559.803, Florida Statutes, is amended to read:

15 559.803 Disclosure statement.--At least 3 working days
16 prior to the time the purchaser signs a business opportunity
17 contract, or at least 3 working days prior to the receipt of
18 any consideration by the seller, whichever occurs first, the
19 seller must provide the prospective purchaser a written
20 document, the cover sheet of which is entitled in at least
21 12-point boldfaced capital letters "DISCLOSURES REQUIRED BY
22 FLORIDA LAW." Under this title shall appear the following
23 statement in at least 10-point type: "The State of Florida
24 has not reviewed and does not approve, recommend, endorse, or
25 sponsor any business opportunity. The information contained
26 in this disclosure has not been verified by the state. If you
27 have any questions about this investment, see an attorney
28 before you sign a contract or agreement." Nothing except the
29 title and required statement shall appear on the cover sheet.
30 Immediately following the cover sheet, the seller must provide
31 an index page that briefly lists the contents of the

1 disclosure document as required in this section and any pages
2 on which the prospective purchaser can find each required
3 disclosure. At the top of the index page, the following
4 statement must appear in at least 10-point type: "The State of
5 Florida requires sellers of business opportunities to disclose
6 certain information to prospective purchasers. This index is
7 provided to help you locate this information." If the index
8 contains other information not required by this section, the
9 seller shall place a designation beside each of the
10 disclosures required by this section and provide an
11 explanation of the designation at the end of the statement at
12 the top of the index page. The disclosure document shall
13 contain the following information:

14 (11) A statement disclosing who, if any, of the
15 persons listed in subsections (1) and (2):

16 (c) Is subject to any currently effective state or
17 federal agency or court injunctive or restrictive order, or
18 has been subject to any administrative action in which an
19 order by a governmental agency was rendered, or is a party to
20 a proceeding currently pending in which such order is sought,
21 relating to or affecting business opportunities activities or
22 the business opportunity seller-purchaser relationship or
23 involving fraud (including violation of any franchise or
24 business opportunity law or unfair or deceptive practices
25 law), embezzlement, fraudulent conversion, misappropriation of
26 property, or restraint of trade.

27
28 Such statement shall set forth the identity and location of
29 the court or agency; the date of conviction, judgment, or
30 decision; the penalty imposed; the damages assessed; the terms
31 of settlement or the terms of the order; and the date, nature,

1 and issuer of each such order or ruling. A business
2 opportunity seller may include a summary opinion of counsel as
3 to any pending litigation, but only if counsel's consent to
4 the use of such opinion is included in the disclosure
5 statement.

6 Section 21. Subsection (1) of section 559.805, Florida
7 Statutes, is amended to read:

8 559.805 Filings with the department; disclosure of
9 advertisement identification number.--

10 (1) Every seller of a business opportunity shall
11 annually file with the department a copy of the disclosure
12 statement required by s. 559.803 prior to placing an
13 advertisement or making any other representation designed to
14 offer to, sell to, or solicit an offer to buy a business
15 opportunity from a prospective purchaser in this state and
16 shall update this filing by reporting ~~as~~ any material change
17 in the required information within 30 days after the material
18 change occurs, ~~but not less frequently than annually.~~ An
19 advertisement is not placed in the state merely because the
20 publisher circulates, or there is circulated on his behalf in
21 the state, any bona fide newspaper or other publication of
22 general, regular, and paid circulation which has had more than
23 two-thirds of its circulation during the past 12 months
24 outside the state or because a radio or television program
25 originating outside the state is received in the state. If
26 the seller is required by s. 559.807 to provide a bond or
27 establish a trust account or guaranteed letter of credit, he
28 shall contemporaneously file with the department a copy of the
29 bond, a copy of the formal notification by the depository that
30 the trust account is established, or a copy of the guaranteed
31 letter of credit. Every seller of a business opportunity shall

1 file with the department a list of independent agents who will
2 engage in the offer or sale of business opportunities on
3 behalf of the seller in this state. This list must be kept
4 current and shall include the following information: name,
5 home and business address, telephone number, present employer,
6 social security number, and birth date. No person shall be
7 allowed to offer or sell business opportunities unless the
8 required information has been provided to the department.

9 Section 22. Subsection (1) of section 559.811, Florida
10 Statutes, is amended, and subsection (8) is added to said
11 section to read:

12 559.811 Contracts to be in writing; form;
13 provisions.--

14 (1) Every business opportunity contract shall be in
15 writing, and a copy shall be given to the purchaser at least 3
16 working days before signing ~~72 hours prior to the time he~~
17 ~~signs~~ the contract.

18 Section 23. Subsection (2) of section 559.813, Florida
19 Statutes, is amended, and subsection (8) is added to said
20 section, to read:

21 559.813 Remedies; enforcement.--

22 (2)(a) The department may enter an order imposing one
23 or more of the penalties set forth in paragraph (b) if the
24 department finds that a seller or any of the seller's
25 principal officers or agents:

26 1. Violated or is operating in violation of any of the
27 provisions of this part or of the rules adopted or orders
28 issued thereunder;

29 2. Made a material false statement in any application,
30 document, or record required to be submitted or retained under
31 this part;

1 3. Refused or failed, after notice, to produce any
2 document or record or disclose any information required to be
3 produced or disclosed under this part or the rules of the
4 department;

5 4. Made a material false statement in response to any
6 request or investigation by the department, the Department of
7 Legal Affairs, or the state attorney; or

8 5. Has intentionally defrauded the public through
9 dishonest or deceptive means.

10 (b) Upon a finding as set forth in paragraph (a), the
11 department may enter an order doing one or more of the
12 following:

13 1. Issuing a notice of noncompliance pursuant to s.
14 120.695.

15 2. Imposing an administrative fine not to exceed
16 \$5,000 per violation for each act which constitutes a
17 violation of this part or a rule or order.

18 3. Directing that the seller or its principal officers
19 or agents cease and desist specified activities.

20 4. Refusing to issue or revoking or suspending an
21 advertisement identification number.

22 5. Placing the registrant on probation for a period of
23 time, subject to such conditions as the department may
24 specify.

25 (c) The administrative proceedings which could result
26 in the entry of an order imposing any of the penalties
27 specified in paragraph (b) shall be conducted in accordance
28 with chapter 120.~~If a business opportunity seller uses untrue~~
29 ~~or misleading statements in the sale of a business~~
30 ~~opportunity, fails to give the proper disclosures, fails to~~
31 ~~include the contract provisions, fails to post the bond as~~

1 ~~required in this part, or violates any other provision of this~~
2 ~~part, the department may order the seller to cease and desist~~
3 ~~selling business opportunities until the seller complies with~~
4 ~~the provisions of this part. The department also may impose~~
5 ~~an administrative fine not to exceed \$5,000 per violation.~~

6 (8) The department has the authority to adopt rules
7 pursuant to chapter 120 to implement this part.

8 Section 24. Subsections (6), (7), and (8) of section
9 559.903, Florida Statutes, are amended to read:

10 559.903 Definitions.--As used in this act:

11 (6) "Motor vehicle" means any automobile, truck, bus,
12 recreational vehicle, motorcycle, motor scooter, or other
13 motor powered vehicle, but does not include trailers, mobile
14 homes, travel trailers, or trailer coaches without independent
15 motive power, or watercraft or aircraft.

16 (7) "Motor vehicle repair shop" means any person who,
17 for compensation, engages or attempts to engage in the repair
18 of motor vehicles owned by other persons and includes, but is
19 not limited to: mobile motor vehicle repair shops, motor
20 vehicle and recreational vehicle dealers; garages; service
21 stations; self-employed individuals; truck stops; paint and
22 body shops; brake, muffler, or transmission shops; and shops
23 doing ~~upholstery~~ or glass work. Any person who engages solely
24 in the maintenance or repair of the coach portion of a
25 recreational vehicle is not a motor vehicle repair shop.

26 (8) "Place of business" means a physical place where
27 the business of motor vehicle repair is conducted, including
28 any vehicle constituting a mobile motor vehicle repair shop
29 from which the business of motor vehicle repair is conducted.

30 Section 25. Section 559.904, Florida Statutes, is
31 amended to read:

1 559.904 Motor vehicle repair shop registration;
2 application; exemption.--
3 (1) Each motor vehicle repair shop engaged or
4 attempting to engage in the business of motor vehicle repair
5 work must register with the department prior to doing business
6 in this state. The application for registration must be on a
7 form provided by the department and must include at least the
8 following information:
9 (a) The name of the applicant.
10 (b) The name under which the applicant is doing
11 business.
12 (c) The business address at which the applicant
13 performs repair work or in the case of a mobile motor vehicle
14 repair shop, the home address of the owner, if different from
15 the business address.
16 (d) Copies of all licenses, permits, and
17 certifications obtained by the applicant or employees of the
18 applicant.
19 (e) Number of employees which the applicant intends to
20 employ or which are currently employed.
21 (2) Any motor vehicle repair shop maintaining more
22 than one place of business may file a single application
23 annually, which, along with the other information required by
24 this part, clearly indicates the location of and the
25 individual in charge of each facility or in the case of a
26 mobile motor vehicle repair shop, the home address of the
27 owner, if different from the business address. In such case,
28 fees shall be paid for each place of business ~~location~~.
29 (3) Each application for registration must be
30 accompanied by a registration fee set forth as follows:
31

1 (a) If the place of business only performed "minor
2 repair service": \$25.

3 **(b)**~~(a)~~ If the place of business has 1 to 5 employees:
4 ~~\$50~~\$25.

5 **(c)**~~(b)~~ If the place of business has 6 to 10 employees:
6 \$150.

7 **(d)**~~(c)~~ If the place of business has 11 or more
8 employees: \$300.

9 (4) No annual registration fee is required for any
10 motor vehicle repair shop which has a local municipal or
11 county license issued pursuant to an ordinance containing
12 standards which the department determines are at least equal
13 to the requirements of this part, or for any motor vehicle
14 dealer licensed pursuant to chapter 320.

15 (5) The department shall issue to each applicant a
16 registration certificate in the form and size as prescribed by
17 the department in accordance with s. 120.60. In the case of
18 an applicant with more than one place of business, the
19 department shall issue a registration certificate for each
20 place of business. The certificate must show at least the name
21 and address of the motor vehicle repair shop and the
22 registration number for that place of business. In the case of
23 a mobile motor vehicle repair shop, the certificate must show
24 the home address of the owner, if different from the business
25 address.

26 (6) Any affidavit of exemption proof of filing
27 certificate, issued by the department prior to July 1, 1997,
28 to a motor vehicle repair shop conducting only minor repair
29 services shall be valid until its expiration. ~~Each motor~~
30 ~~vehicle repair shop which performs only "minor repairs" is~~
31 ~~exempt from the provisions of subsections (1)-(5); however,~~

1 ~~any motor vehicle repair shop claiming to be exempt shall~~
2 ~~annually file with the department an affidavit of exemption~~
3 ~~accompanied by a \$10 fee prior to engaging in business in this~~
4 ~~state. The affidavit of exemption shall be on forms~~
5 ~~prescribed by the department and shall include the name of the~~
6 ~~business and the business address where minor repair is~~
7 ~~performed. Any motor vehicle repair shop maintaining more than~~
8 ~~one business, each of which performs only minor repairs, may~~
9 ~~file a single affidavit of exemption annually, which, along~~
10 ~~with the other information required by this part, clearly~~
11 ~~indicates the location and individual in each place of~~
12 ~~business. In such case, fees shall be paid for each location.~~
13 ~~Notwithstanding any exemption from the provisions of~~
14 ~~subsections (1)-(5), all other provisions of this part shall~~
15 ~~apply to any motor vehicle repair shop claiming to perform~~
16 ~~only minor repairs.~~

17 (7) Any person applying for or renewing a local
18 occupational license on or after October 1, 1993, to engage in
19 business as a motor vehicle repair shop must exhibit an active
20 registration certificate or active affidavit of exemption
21 proof of filing certificate from the department ~~or a copy of~~
22 ~~the affidavit of exemption~~ before the local occupational
23 license may be issued or renewed.

24 (8) Each registration ~~and affidavit of exemption~~ must
25 be renewed annually.

26 (9) No annual registration application or fee is
27 required for an individual with no employees and no
28 established place of business. In the case of a mobile motor
29 vehicle repair shop, the established place of business shall
30 be considered the home address of the owner, if different than
31 the business address.

1 (10) The department may deny or refuse to renew the
2 registration of a motor vehicle repair shop based upon a
3 determination that the motor vehicle repair shop, or any of
4 its directors, officers, owners, or general partners:

5 (a) Has failed to meet the requirements for
6 registration as provided in this part;

7 (b) Has not satisfied a civil fine, administrative
8 fine, or other penalty arising out of any administrative or
9 enforcement action brought by any governmental agency based
10 upon conduct involving fraud, dishonest dealing, or any
11 violation of this part;

12 (c) Has had against him any civil, criminal, or
13 administrative adjudication in any jurisdiction, based upon
14 conduct involving fraud, dishonest dealing, or any violation
15 of this part; or

16 (d) Has had a judgment entered against him in any
17 action brought by the department or the state attorney
18 pursuant to ss. 501.201-501.213 or this part.

19 Section 26. Subsections (1) and (2) of section
20 559.905, Florida Statutes, are amended to read:

21 559.905 Written motor vehicle repair estimate and
22 disclosure statement required.--

23 (1) When any customer requests a motor vehicle repair
24 shop to perform repair work on a motor vehicle, the cost of
25 which repair work will exceed ~~\$100~~^{\$50} to the customer, the
26 shop shall prepare a written repair estimate, which is a form
27 setting forth the estimated cost of repair work, including
28 diagnostic work, before effecting any diagnostic work or
29 repair. The written repair estimate shall also include the
30 following items:
31

- 1 (a) The name, address, and telephone number of the
2 motor vehicle repair shop.
- 3 (b) The name, address, and telephone number of the
4 customer.
- 5 (c) The date and time of the written repair estimate.
- 6 (d) The year, make, model, odometer reading, and
7 license tag number of the motor vehicle.
- 8 (e) The proposed work completion date.
- 9 (f) A general description of the customer's problem or
10 request for repair work or service relating to the motor
11 vehicle.
- 12 (g) A statement as to whether the customer is being
13 charged according to a flat rate or an hourly rate, or both.
- 14 (h) The estimated cost of repair.
- 15 (i) The charge for making a repair price estimate or,
16 if the charge cannot be predetermined, the basis on which the
17 charge will be calculated.
- 18 (j) The customer's intended method of payment.
- 19 (k) The name and telephone number of another person
20 who may authorize repair work, if the customer desires to
21 designate such person.
- 22 (l) A statement indicating what, if anything, is
23 guaranteed in connection with the repair work and the time and
24 mileage period for which the guarantee is effective.
- 25 (m) A statement allowing the customer to indicate
26 whether replaced parts should be saved for inspection or
27 return.
- 28 (n) A statement indicating the daily charge for
29 storing the customer's motor vehicle after the customer has
30 been notified that the repair work has been completed.
- 31 However, no storage charges shall accrue or be due and payable

1 for a period of 3 working days from the date of such
2 notification.

3 (2) If the cost of repair work will exceed \$100 ~~\$50~~,
4 the shop shall present to the customer a written notice
5 conspicuously disclosing, in a separate, blocked section, only
6 the following statement, in capital letters of at least
7 12-point type:

8
9 PLEASE READ CAREFULLY, CHECK ONE OF THE STATEMENTS BELOW, AND
10 SIGN:

11 I UNDERSTAND THAT, UNDER STATE LAW, I AM ENTITLED TO A
12 WRITTEN ESTIMATE IF MY FINAL BILL WILL EXCEED \$100 ~~\$50~~.

13
14 I REQUEST A WRITTEN ESTIMATE.

15
16 I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE
17 REPAIR COSTS DO NOT EXCEED \$..... THE SHOP MAY NOT EXCEED
18 THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.

19
20 I DO NOT REQUEST A WRITTEN ESTIMATE.

21
22 SIGNED DATE

23
24 Section 27. Subsection (4) of section 559.921, Florida
25 Statutes, is amended to read:

26 559.921 Remedies.--

27 (4)(a) The department may enter an order imposing one
28 or more of the penalties set forth in paragraph (b) if the
29 department finds that a motor vehicle repair shop:

30
31

- 1 1. Violated or is operating in violation of any of the
2 provisions of this part or of the rules adopted or orders
3 issued thereunder;
- 4 2. Made a material false statement in any application,
5 document, or record required to be submitted or retained under
6 this part;
- 7 3. Refused or failed, or any of its principal officers
8 has refused or failed, after notice, to produce any document
9 or record or disclose any information required to be produced
10 or disclosed under this part or the rules of the department;
- 11 4. Made a material false statement in response to any
12 request or investigation by the department, the Department of
13 Legal Affairs, or the state attorney; or
- 14 5. Has intentionally defrauded the public through
15 dishonest or deceptive means.
- 16 (b) Upon a finding as set forth in paragraph (a), the
17 department may enter an order doing one or more of the
18 following:
- 19 1. Issuing a notice of noncompliance pursuant to s.
20 120.695.
- 21 2. Imposing an administrative fine not to exceed
22 \$1,000 per violation for each act which constitutes a
23 violation of this part or a rule or order.
- 24 3. Directing that the motor vehicle repair shop cease
25 and desist specified activities.
- 26 4. Refusing to register or revoking or suspending a
27 registration.
- 28 5. Placing the registrant on probation for a period of
29 time, subject to such conditions as the department may
30 specify.
- 31

1 (c) The administrative proceedings which could result
2 in the entry of an order imposing any of the penalties
3 specified in paragraph (b) shall be conducted in accordance
4 with chapter 120.~~The department may enforce the provisions of~~
5 ~~this part by imposing administrative fines not to exceed~~
6 ~~\$1,000 per violation or by taking action to suspend or revoke~~
7 ~~the registration of a motor vehicle repair shop when:~~
8 ~~(a) The business has a pattern of failing to comply~~
9 ~~with or violating the provisions of this part;~~
10 ~~(b) The business has filed an application in which any~~
11 ~~material fact is omitted or falsely stated; or~~
12 ~~(c) The business has intentionally defrauded the~~
13 ~~public through dishonest or deceptive means.~~
14
15 ~~All hearings under this subsection shall be conducted in~~
16 ~~accordance with chapter 120.~~
17 Section 28. Section 559.92201, Florida Statutes, is
18 created to read:
19 559.92201 Rulemaking power.--The department has the
20 authority to adopt rules pursuant to chapter 120 to implement
21 this part.
22 Section 29. Paragraph (b) of subsection (1) of section
23 559.9221, Florida Statutes, is amended to read:
24 559.9221 Motor Vehicle Repair Advisory Council.--The
25 Motor Vehicle Repair Advisory Council is created to advise and
26 assist the department in carrying out this part.
27 (1) The membership of the council may not exceed 11
28 members appointed by the Commissioner of Agriculture.
29 (b) One member of the council must be chosen from
30 persons already engaged solely in minor repair service ~~who are~~
31 ~~eligible to submit an affidavit of exemption and who submit~~

1 ~~such affidavit by October 1, 1993. Thereafter, the minor~~
2 ~~repair shop member of this council must file an annual~~
3 ~~affidavit of exemption pursuant to this part.~~

4 Section 30. Subsection (10) of section 559.927,
5 Florida Statutes, is amended to read:

6 559.927 Definitions.--For the purposes of this part,
7 the term:

8 (10) "Seller of travel" means any resident or
9 nonresident person, firm, corporation, or business entity who
10 offers for sale, directly or indirectly, at wholesale or
11 retail, prearranged travel, tourist-related services, or
12 tour-guide services for individuals or groups, including, but
13 not limited to, through vacation or tour packages, or through
14 vacation certificates in exchange for a fee, commission, or
15 other valuable consideration. The term includes any business
16 entity offering membership in a travel club or travel services
17 for an advance fee or payment, even if no travel contracts or
18 certificates or vacation or tour packages are sold by the
19 business entity.

20 Section 31. Subsection (2) of section 559.928, Florida
21 Statutes, is amended, subsections (3), (4), (5), (6), (7), and
22 (8) are renumbered as subsections (4), (5), (6), (7), (8), and
23 (9), respectively, and a new subsection (3) is added to said
24 section, to read:

25 559.928 Registration.--

26 (2) Registration fees shall be ~~in an amount equal to~~
27 ~~the costs to the department of implementing and enforcing this~~
28 ~~part. However, such fee may not be greater than \$300 per year~~
29 per registrant. All amounts collected shall be deposited by
30 the Treasurer to the credit of the General Inspection Trust
31 Fund of the Department of Agriculture and Consumer Services

1 pursuant to s. 570.20, for the sole purpose of administration
2 of this part.

3 (3) Each independent agent shall annually file an
4 affidavit with the department accompanied by a \$25 filing fee
5 prior to engaging in business in this state. The affidavit
6 shall include the independent agent's full name, legal
7 business or trade name, mailing address, business address,
8 telephone numbers, and social security number. The
9 independent agent shall file with the affidavit a copy of each
10 written contract entered into with a seller of travel. A
11 letter evidencing proof of filing shall be issued by the
12 department and must be prominently displayed in the
13 independent agent's primary place of business.

14 Section 32. Subsection (1) of section 559.929, Florida
15 Statutes, 1996 Supplement, is amended to read:

16 559.929 Security requirements.--

17 (1) An application must be accompanied by a
18 performance bond in an amount set by the department not to
19 exceed \$25,000, or in the an amount of set by the department
20 ~~not to exceed~~ \$50,000 if the seller of travel is offering
21 vacation certificates. The surety on such bond shall be a
22 surety company authorized to do business in the state.

23 Section 33. Section 559.9295, Florida Statutes, is
24 amended to read:

25 559.9295 Submission of vacation certificate
26 documents.--Sellers of travel who offer vacation certificates
27 must submit and disclose to the department with the
28 application for registration, and any time such document is
29 changed, but prior to the sale of any vacation certificate,
30 the following materials:

31

1 (1) A copy of the contract by which the rights,
2 obligations, benefits, and privileges resulting from purchase
3 of a vacation certificate are established.

4 (2) A copy of each promotional brochure, pamphlet,
5 form letter, registration form, or any other written material
6 disseminated in connection with the advertising, promotion, or
7 sale of any vacation certificate.

8 (3) A verbatim script of each radio, television, or
9 movie, or other similar advertisement, broadcast to the public
10 in connection with the advertising, promotion, or sale of any
11 vacation certificates.

12 (4) A transcript of any standard verbal sales
13 presentation utilized in connection with the advertising,
14 promotion, or sale of vacation certificates.

15 (5) A copy of all rules, regulations, conditions, or
16 limitations upon the use of, or obtaining reservations for the
17 use of, accommodations or facilities available pursuant to the
18 vacation certificate.

19 (6) A copy of a written authorization for the use of
20 any registered trademark, trade name, or trade logo utilized
21 in promotional brochures, pamphlets, form letters,
22 registration forms, or other written materials disseminated in
23 connection with the advertising, promotion, or sale of
24 vacation certificates from the holder of each trademark, trade
25 name, or trade logo so used.

26 (7) A complete copy of the original of each
27 testimonial letter from previous vacation certificate
28 purchasers utilized in advertisements disseminated in
29 connection with advertising, promotion, or sale of vacation
30 certificates.

31

1 (8) Where discount or complimentary coupons or tickets
2 are to be provided to purchasers, a copy of such ticket or
3 coupon which shall include a statement of the names and
4 addresses of businesses where honored, the goods, services, or
5 amenities provided, and any additional charges, limitations,
6 or conditions.

7 (9) Where other goods, services, or amenities are
8 provided to the purchaser in addition to the right to use
9 accommodations or facilities, a description of such goods,
10 services, or amenities, including any charges, limitations, or
11 conditions, and a statement of the names and addresses of
12 business entities which are to provide or honor them.

13 (10) A statement of the number of certificates to be
14 issued and the date of their expiration.

15 (11) A copy of the vacation certificate and its
16 component parts, including, but not limited to, any
17 registration card, form letter, reservation form, confirmation
18 form, and lodging directory.

19 (12) A copy of any agreement between the seller and
20 business entities providing accommodations or facilities to
21 purchasers.

22 (13) A copy of any agreement between the seller and
23 each business entity providing or honoring discount or
24 complimentary coupons or tickets, or providing other goods,
25 services, or amenities to the purchaser.

26 (14) A listing of the full name, address, and
27 telephone number of each person through which the distribution
28 and sale of vacation certificates is to be carried out,
29 including the number of vacation certificates allocated or
30 sold to each such person and the name and address of a Florida
31 registered agent for service of process.

1 (15) A financial statement prepared by an independent
2 certified public accountant in accordance with generally
3 accepted accounting principles or the most recently filed
4 federal income tax return. Such statement or return shall be
5 submitted annually at the close of each fiscal year. A seller
6 which has not yet begun operations shall submit a balance
7 sheet prepared by an independent certified public accountant
8 in accordance with generally accepted auditing principles in
9 lieu of an initial financial statement, thereafter annually
10 submitting a financial statement or federal income tax return
11 at the close of the fiscal year.

12 (16) An annual submission fee not to exceed \$100.

13 (17) Within 10-working days after receipt of any
14 materials submitted subsequent to filing an initial
15 registration application or any annual renewal thereof, the
16 department shall determine whether such materials are adequate
17 to meet the requirements of this section. The department shall
18 notify the seller of travel that materials submitted are in
19 substantial compliance, or shall notify the seller of travel
20 of any specific deficiencies. If the department fails to
21 notify the seller of travel of its determination within the
22 period specified in this paragraph, the materials shall be
23 deemed in compliance; however, the failure of the department
24 to send notification in either case will not relieve the
25 seller of travel from the duty of complying with this section.
26 Neither the submission of these materials nor the department's
27 response implies approval, recommendation, or endorsement by
28 the department or that the contents of said materials have
29 been verified by the department.

30 Section 34. Paragraph (g) is added to subsection (11)
31 of section 559.9335, Florida Statutes, subsections (12), (13),

1 (14), (15), (16), (17), (18), (19), (20), (21), (22), and
2 (23), are renumbered as subsections (14), (15), (16), (17),
3 (18), (19), (20), (21), (22), (23), (24), and (25),
4 respectively, and new subsections (12) and (13) are added to
5 said section, to read:

6 559.9335 Violations.--It is a violation of this part
7 for any person:

8 (11) To misrepresent or deceptively represent:

9 (g) That the recipient of an advertisement or
10 promotional materials is a winner, or has been selected, or is
11 otherwise being involved in a select group for receipt, of a
12 gift, award, or prize, unless this fact is the truth.

13 (12) To fail to inform a purchaser of a nonrefundable
14 cancellation policy prior to the seller of travel accepting
15 any fee, commission, or other valuable consideration.

16 (13) To fail to include, when offering to sell a
17 vacation certificate, in any advertisement or promotional
18 material, the following statement: "This is an offer to sell
19 travel."

20 Section 35. Subsections (1) and (3) of section
21 559.9355, Florida Statutes, are amended to read:

22 559.9355 Administrative remedies; penalties.--

23 (1) The department may enter an order doing one or
24 more of the following if the department finds that a person
25 ~~seller of travel~~ has violated or is operating in violation of
26 any of the provisions of this part or the rules or orders
27 issued thereunder:

28 (a)(e) Issuing a notice of noncompliance pursuant to
29 s. 120.695 of a letter of concern.

30 (b)(a) Imposing an administrative fine not to exceed
31 \$5,000 for each act or omission.

1 ~~(c)(b)~~ Directing that the person ~~seller of travel~~
2 cease and desist specified activities.
3 ~~(d)(e)~~ Refusing to register or canceling or suspending
4 a registration.
5 ~~(e)(d)~~ Placing the registrant on probation for a
6 period of time, subject to such conditions as the department
7 may specify.
8 (f) Canceling an exemption granted under s. 559.935.
9 (3) The department has the authority to adopt ~~may~~
10 ~~adopt any reasonable~~ rules ~~rule~~ pursuant to chapter 120 to
11 implement to carry out the provisions of this section and ss.
12 559.928, 559.929, 559.934, and 559.935.
13 Section 36. Section 559.8015, Florida Statutes, is
14 hereby repealed.
15 Section 37. This act shall take effect July 1, 1997.
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

190-893E-97

HOUSE SUMMARY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Revises the provisions of the Solicitation of Contributions Act to provide that the late filing fee shall be \$25 for each month or part of a month that the annual renewal statement and financial report are late and eliminates the requirement that the Department of Agriculture and Consumer Services set such a fee and to provide for the authority of the department with respect to registration and solicitation requirements.

Revises current provisions of law relating to health studios to provide an exemption from regulation for described country clubs, to eliminate a penalty fee for late registrations, and to revise provisions relating to security requirements and penalties.

Revises provisions of law with respect to home solicitation sales to eliminate reference to the Division of Consumer Services of the Department of Agriculture and Consumer Services.

Revises the Dance Studio Act to provide a fee of \$300 per year for each dance studio location, to delete reference to the setting of such a fee by the department, and to provide penalties for violations of rules or orders of the department.

Provides for a licensing fee of \$1,500 for commercial telephone sellers and deletes reference to the department setting the fee. Revises language with respect to licensure of salespersons and grounds for denial of licensure.

Revises the Florida Pawnbroking Act to define beneficial owner and operator, to provide that any person applying for or renewing a local occupational license as a pawnbroker must exhibit a current license from the agency before the local license may be issued or reissued, and to provide for agency rulemaking.

Revises the Sale of Business Opportunities Act to delete a provision applying the act to advertisers of business opportunities, to revise the requirements with respect to the disclosure statement, to provide additional requirements with respect to filings with the department, to provide that every business opportunity contract shall be in writing and a copy shall be given to the purchaser at least 3 working days before signing, and to revise provisions with respect to remedies and enforcement.

Revises the Florida Motor Vehicle Repair Act to provide

190-893E-97

1 for additional information to be provided for
2 registration, to revise the fee schedule for
3 registration, to provide criteria for denying or refusing
4 to renew a registration and to provide for additional
5 remedies.

6 Revises the Florida Sellers of Travel Act to redefine the
7 term "seller of travel," to provide for a \$300
8 registration fee per registrant per year, to provide for
9 an affidavit and an annual \$25 filing fee for agents, to
10 revise language with respect to security requirements, to
11 provide for the effect of the submission of vacation
12 certificate documents, to provide for additional acts
13 which constitute violations of the act, and to revise
14 language with respect to administration remedies and
15 penalties.

16 See bill for details.
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31