

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 section
16 501.925, F.S.; revising conditions under which
17 a watch is considered a used watch; amending s.
18 539.001, F.S.; revising the Florida Pawnbroking
19 Act to provide definitions, to provide that
20 local occupational licenses may not be issued
21 without providing proof of a state license,
22 revising language with respect to
23 administrative penalties; providing for a
24 notice of noncompliance rather than a letter of
25 concern, and to provide for rulemaking
26 authority; amending ss. 559.801-559.813, F.S.;
27 revising the Sale of Business Opportunities
28 Act; revising definitions; revising language
29 with respect to the disclosure statement;
30 providing increased requirements with respect
31 to required filings with the department;

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

1 providing for additional acts which are
2 violations; revising language with respect to
3 rules; amending s. 559.9355, F.S.; revising
4 language with respect to administrative
5 remedies and penalties; repealing s. 559.8015,
6 F.S., relating to applicability to advertisers
7 of business opportunities; providing an
8 effective date.
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10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Paragraph (b) of subsection (4) and
13 subsection (7) of section 496.405, Florida Statutes, are
14 amended to read:

15 496.405 Registration statements by charitable
16 organizations and sponsors.--

17 (4)

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

25 (7) The department must examine each initial
26 registration statement or annual renewal statement and the
27 supporting documents filed by a charitable organization or
28 sponsor and shall determine whether the registration
29 requirements are satisfied. Within 10 working days after its
30 receipt of a statement, the department must examine the
31 statement, notify the applicant of any apparent errors or

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

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

1 496.419 Powers of the department.--

2 (1) The department may conduct an investigation of any
3 person or organization whenever there is an appearance, either
4 upon complaint or otherwise, that a violation of ss.
5 496.401-496.424 or s. 496.426 or of any rule adopted or of any
6 order issued pursuant thereto has been committed or is about
7 to be committed.

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

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

16 (b) Made a material false statement in an application,
17 statement, or report required to be filed under ss.
18 496.401-496.424 or s. 496.426;

19 (c) Refused or failed, or any of its principal
20 officers has refused or failed, after notice, to produce any
21 records of such organization or to disclose any information
22 required to be disclosed under ss. 496.401-496.424 or s.
23 496.426 or the rules of the department; or

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

27 ~~(a)(e)~~ Issuing a notice of noncompliance pursuant to
28 s. 120.695; of a letter of concern; and

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

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1 (c) Refusing to register or canceling or suspending a
2 registration;

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

6 ~~(e)(f)~~ Canceling an exemption granted under s.
7 496.406; ~~and-~~

8 ~~(f)(a)~~ Imposing an administrative fine not to exceed
9 \$1,000 for each act or omission which constitutes a violation
10 of ss. 496.401-496.424 or s. 496.426 or a rule or order. ~~+~~

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

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

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

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

30 496.420 Civil remedies and enforcement.--

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1 (1) In addition to other remedies authorized by law,
 2 the Department of Legal Affairs may bring a civil action in
 3 circuit court to enforce ss. 496.401-496.424 or s. 496.426.
 4 Upon a finding that any person has violated any of these
 5 sections, a court may make any necessary order or enter a
 6 judgment including, but not limited to, a temporary or
 7 permanent injunction, a declaratory judgment, the appointment
 8 of a master or receiver, the sequestration of assets, the
 9 reimbursement of persons from whom contributions have been
 10 unlawfully solicited, the distribution of contributions in
 11 accordance with the charitable or sponsor purpose expressed in
 12 the registration statement or in accordance with the
 13 representations made to the person solicited, the
 14 reimbursement of the department for investigative costs and of
 15 the Department of Legal Affairs for attorney's fees and costs,
 16 including investigative costs, and any other equitable relief
 17 the court finds appropriate. Upon a finding that any person
 18 has violated any provision of ss. 496.401-496.424 or s.
 19 496.426 with actual knowledge or knowledge fairly implied on
 20 the basis of objective circumstances, a court may enter an
 21 order imposing a civil penalty in an amount not to exceed
 22 \$10,000 per violation.

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

1 failure to comply with the terms of an assurance is prima
2 facie evidence of a violation of one or more of these
3 sections.

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

6 496.424 Rulemaking authority.--The department has the
7 authority to ~~may~~ adopt rules pursuant to chapter 120 to
8 implement ~~necessary to effectuate the purposes of~~ ss.
9 496.401-496.424 or s. 496.426.

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

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

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

27 Section 6. Section 501.014, Florida Statutes, is
28 amended to read:

29 501.014 Health studios; powers and duties of the
30 department.--

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1 (1) The department may, at any time during business
2 hours, enter any business location of a health studio required
3 to be registered pursuant to ss. 501.012-501.019, examine the
4 books or records of the health studio, and subpoena all
5 necessary records when the department has reason to believe a
6 violation of the provisions of ss. 501.012-501.019 has
7 occurred.

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

10 ~~(3)(2)~~ The department shall:

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

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

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

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

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

22 501.015 Health studios; registration requirements and
23 fees.--Each health studio shall:

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

27 (6) Include the registration number issued by the
28 department in all printed advertisements, contracts, and
29 publications utilized by the health studio for a business
30 location.

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1 Section 8. Section 501.016, Florida Statutes, is
2 amended to read:

3 501.016 Health studios; security requirements.--Each
4 ~~Every~~ health studio that ~~which~~ sells contracts for health
5 studio services shall, ~~during any period before opening and~~
6 ~~for a period of 5 years after commencement of business,~~ meet
7 the following requirements:

8 (1) Each health studio shall maintain for each
9 separate business location a bond issued by a surety company
10 admitted to do business in this state. The principal sum of
11 the bond shall be \$50,000, and the bond, when required, shall
12 be obtained before an occupational license may be issued under
13 chapter 205. Upon issuance of an occupational license, the
14 licensing authority shall immediately notify the department of
15 such issuance in a manner established by the department by
16 rule. The bond shall be in favor of the state for the benefit
17 of any person injured as a result of a violation of ss.
18 501.012-501.019. The aggregate liability of the surety to all
19 persons for all breaches of the conditions of the bonds
20 provided herein shall in no event exceed the amount of the
21 bond. The original surety bond required by this section shall
22 be filed with the department.

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

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

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

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1 The original letter of credit or certificate of deposit
2 submitted in lieu of the bond shall be filed with the
3 department. The department shall decide whether the security
4 furnished in lieu of bond by the health studio is in
5 compliance with the requirements of this section.

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

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

1 (5) Each health studio shall furnish the department
 2 with a copy of the escrow account which would contain all
 3 funds received for future consumer services, whether by
 4 contract or otherwise, sold prior to the business location's
 5 full operation and specify a date certain for opening, if such
 6 an escrow account is established.

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

1 ~~subsections (1) and (2). Those health studios that have been~~
2 ~~in business continuously since October 1, 1989, are exempt~~
3 ~~effective October 1, 1994, from the requirements of~~
4 ~~subsections (1) and (2).~~Such exemption extends to all current
5 and future business locations of an exempt health studio.

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

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

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

23 501.019 Health studios; penalties.--

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

27 1. Violated or is operating in violation of any of the
28 provisions of this part or of the rules adopted or orders
29 issued thereunder;
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1 2. Made a material false statement in any application,
2 document, or record required to be submitted or retained under
3 this part;

4 3. Refused or failed, or any of its principal officers
5 has refused or failed, after notice, to produce any document
6 or record or disclose any information required to be produced
7 or disclosed under this part or the rules of the department;

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

11 5. Has intentionally defrauded the public through
12 dishonest or deceptive means. ~~The department may impose~~
13 ~~administrative fines as prescribed below:~~

14 ~~(a) For a violation of s. 501.016, a fine not to~~
15 ~~exceed \$5,000 per violation.~~

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. For a violation of s. 501.015 or s. 501.016,
22 imposing an administrative fine not to exceed \$5,000 per
23 violation.

24 3. For a violation of s. 501.013, s. 501.017, or s.
25 501.018, imposing an administrative a fine not to exceed \$500
26 per violation.

27 4. Directing that the health studio cease and desist
28 specified activities.

29 5. Refusing to register or revoking or suspending a
30 registration.

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1 6. Placing the registrant on probation for a period of
2 5 years, subject to such conditions as the department may
3 specify by rule.

4 (c) The administrative proceedings which could result
5 in the entry of an order imposing any of the penalties
6 specified in paragraph (b) shall be conducted in accordance
7 with chapter 120 ~~For a violation of s. 501.015, a fine not to~~
8 ~~exceed \$100 per violation.~~

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

11 501.021 Home solicitation sale; definitions.--As used
12 in ss. 501.021-501.055:

13 ~~(1) "Division" means the Division of Consumer Services~~
14 ~~of the Department of Agriculture and Consumer Services.~~

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

23 (a) The seller or a person acting for him engages in a
24 personal solicitation of the sale, lease, or rental at a place
25 other than at the seller's fixed location business
26 establishment where goods or services are offered or exhibited
27 for sale, lease, or rental, and

28 (b) The buyer's agreement or offer to purchase is
29 given to the seller and the sale, lease, or rental is
30 consummated at a place other than at the seller's fixed
31 location business establishment,

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 2 including a transaction unsolicited by the consumer and
 3 consummated by telephone and without any other contact between
 4 the buyer and the seller or its representative prior to
 5 delivery of the goods or performance of the services. It does
 6 not include a sale, lease, or rental made at any fair or
 7 similar commercial exhibit or a sale, lease, or rental that
 8 results from a request for specific goods or services by the
 9 purchaser or lessee or a sale made by a motor vehicle dealer
 10 licensed under s. 320.27 which occurs at a location or
 11 facility open to the general public or to a designated group.

12 (2)~~(3)~~ "Business day" means any calendar day except
 13 Sunday or a federal holiday ~~the following business holidays:~~
 14 ~~New Year's Day, Washington's Birthday, Memorial Day,~~
 15 ~~Independence Day, Labor Day, Columbus Day, Veterans' Day,~~
 16 ~~Thanksgiving Day, and Christmas Day.~~

17 (3)~~(4)~~ "Future delivery" means delivery more than 3
 18 business days after the buyer signs an agreement or offer to
 19 purchase.

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

23 501.022 Home solicitation sale; permit required.--

24 (1)(a) It is unlawful for any person to conduct any
 25 home solicitation sale, as defined in s. 501.021~~(2)~~, or to
 26 supervise excluded minors conducting such sales provided in
 27 subparagraph (b)5., in this state without first obtaining a
 28 valid home solicitation sale permit as provided in this
 29 section.

30 (6) The issuing clerk of the circuit court for the
 31 county shall notify each applicant or permitholder of a

1 decision to deny, suspend, or revoke a permit by certified
 2 mail sent to any one of the last addresses submitted by the
 3 applicant or permitholder. ~~A copy of the notice shall be sent~~
 4 ~~to the division.~~

5 ~~(8) Any person who intends to engage in home~~
 6 ~~solicitation sales in more than one county or on a statewide~~
 7 ~~basis shall first obtain a home solicitation sale permit from~~
 8 ~~the clerk of the circuit court for the county in the county~~
 9 ~~where the applicant's fixed location business establishment is~~
 10 ~~located or, if the applicant has no such location in this~~
 11 ~~state, from any clerk of the circuit court of the applicant's~~
 12 ~~choice. The holder of a county home solicitation sale permit~~
 13 ~~may register said permit with the division, and after receipt~~
 14 ~~of a reasonable fee to be established by the division and~~
 15 ~~verification of the validity of the permit, the division shall~~
 16 ~~issue a certificate which shall permit the holder to solicit~~
 17 ~~on a statewide basis. A certificate issued hereunder shall~~
 18 ~~expire on the expiration date of the permit registered with~~
 19 ~~the division.~~

20 (8)(9) Every permitholder shall carry the permit and
 21 certificate required by this section at all times while
 22 engaged in home solicitation sales and shall display the same
 23 to all prospective buyers before initiating the solicitation
 24 of a sale, lease, or rental.

25 Section 12. Section 501.052, Florida Statutes, is
 26 amended to read:

27 501.052 Home solicitation sale; enforcement authority;
 28 injunctive relief.--~~The division shall investigate any~~
 29 ~~complaints received concerning violations of ss.~~
 30 ~~501.021-501.055 and report the results of its investigation to~~
 31 ~~the Attorney General or state attorney, and it may institute~~

1 proceedings to enjoin any person found ~~by the division~~ to be
2 violating the provisions of ss. 501.021-501.055.

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

7 501.143 Dance Studio Act.--

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

9 (d) Registration fees shall be ~~set by department rule~~
10 ~~in an amount equal to the costs to the department of~~
11 ~~implementing and enforcing this section. However, such fee~~
12 ~~shall be based on the number of clients and may not be greater~~
13 ~~than \$300 per year for each dance studio location per~~
14 registrant. All amounts collected shall be deposited in the

15 General Inspection Trust Fund of the Department of Agriculture
16 and Consumer Services for the administration of this section.

17 (7) PENALTIES; REMEDIES.--The following penalties and
18 remedies are available for enforcement of the provisions of
19 this section:

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

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

31

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

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

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

18 Section 14. Paragraph (b) of subsection (5) of section
19 501.605, Florida Statutes, 1996 Supplement, is amended to
20 read:

21 501.605 Licensure of commercial telephone sellers.--

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

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

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

31 501.607 Licensure of salespersons.--

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

5 (d) Whether the applicant, regardless of conviction,
6 has previously been arrested for, convicted or found guilty
7 of, has entered a plea of guilty or a plea of nolo contendere
8 to, or is under indictment or information for, a felony and,
9 if so, the nature of the felony. ~~Conviction includes a~~
10 ~~finding of guilt where adjudication has been withheld.~~

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

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

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

27 Section 16. Section 501.612, Florida Statutes, 1996
28 Supplement, is amended to read:

29 501.612 Grounds for denial of licensure.--

30 (1) The department may enter an order directing that
31 one or more of the actions set forth in subsection (2) be

1 taken if the department finds that a commercial telephone
2 seller or salesperson or any person applying for licensure as
3 a commercial telephone seller or salesperson, including, but
4 not limited to, owners, operators, officers, directors,
5 partners, or other individuals engaged in the management
6 activities of a business entity ~~deny licensure to any~~
7 ~~applicant who:~~

8 (a) Has, regardless of adjudication, been convicted or
9 found guilty of, or has entered a plea of guilty or a plea of
10 nolo contendere to, racketeering or any offense involving
11 fraud, theft, embezzlement, fraudulent conversion, or
12 misappropriation of property, or any other crime involving
13 moral turpitude; ~~Conviction includes a finding of guilt~~
14 ~~where adjudication has been withheld or where a plea of nolo~~
15 ~~contendere has been entered;~~

16 (b) Has, regardless of adjudication, been convicted or
17 found guilty of, or has entered a plea of guilty or a plea of
18 nolo contendere to, any felony;

19 (c) ~~(b)~~ Has had entered against him or any business for
20 which he has worked or been affiliated, an injunction, a
21 temporary restraining order, or a final judgment or order,
22 including a stipulated judgment or order, an assurance of
23 voluntary compliance, or any similar document, in any civil or
24 administrative action involving racketeering, fraud, theft,
25 embezzlement, fraudulent conversion, or misappropriation of
26 property or the use of any untrue or misleading representation
27 in an attempt to sell or dispose of real or personal property
28 or the use of any unfair, unlawful, or deceptive trade
29 practice;

30 (d) ~~(c)~~ Is subject to or has worked or been affiliated
31 with any company which is, or ever has been, subject to any

1 injunction, temporary restraining order, or final judgment or
2 order, including a stipulated judgment or order, an assurance
3 of voluntary compliance, or any similar document, or any
4 restrictive court order relating to a business activity as the
5 result of any action brought by a governmental agency,
6 including any action affecting any license to do business or
7 practice an occupation or trade;

8 (e)~~(d)~~ Has at any time during the previous 7 years
9 filed for bankruptcy, been adjudged bankrupt, or been
10 reorganized because of insolvency;

11 (f)~~(e)~~ Has been a principal, director, officer, or
12 trustee of, or a general or limited partner in, or had
13 responsibilities as a manager in, any corporation,
14 partnership, joint venture, or other entity that filed the
15 bankruptcy, was adjudged bankrupt, or was reorganized because
16 of insolvency within 1 year after the person held that
17 position;

18 (g)~~(f)~~ Has been previously convicted of or found to
19 have been acting as a salesperson or commercial telephone
20 seller without a license or whose licensure has previously
21 been refused, revoked, or suspended in any jurisdiction;

22 (h)~~(g)~~ Falsifies or willfully omits any material
23 information asked for in any ~~the~~ application, document, or
24 record required to be submitted or retained under this part;

25 or

26 (i) Makes a material false statement in response to
27 any request or investigation by the department or the state
28 attorney;

29 (j) Refuses or fails, after notice, to produce any
30 document or record or disclose any information required to be

31

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

1 ~~Consumer Services, the hearing officer shall submit his~~
2 ~~recommendation order to the Department of Agriculture and~~
3 ~~Consumer Services, which shall thereupon issue a final order~~
4 ~~of the Department of Agriculture and Consumer Services in~~
5 accordance with the provisions of chapter 120.

6 Section 17. Section 501.626, Florida Statutes, is
7 amended to read:

8 501.626 Rulemaking power.--The department has the
9 authority to adopt ~~shall promulgate~~ rules pursuant to chapter
10 120 to implement and carry out the provisions of this part.

11 Section 18. Paragraph (b) of subsection (5) of section
12 501.925, Florida Statutes, is amended to read:

13 501.925 Used watches; sales regulated.--

14 (5) A watch shall be deemed to be used if:

15 (b) Its case serial numbers or movement numbers or
16 other distinguishing numbers or identification marks are shall
17 be erased, defaced, removed, altered or covered; however, a
18 watch will not be deemed used if such numbers or marks are
19 erased, defaced, removed, altered, or covered by any person,
20 firm, partnership, association, or corporation engaged in the
21 business of selling watches who bought or acquired such watch
22 for resale, but not for his use or the use of another, from an
23 authorized dealer who bought or acquired such watch directly
24 from its manufacturer, wholesaler, or distributor;or

25 Section 19. Paragraphs (t) and (u) are added to
26 subsection (2), paragraph (f) is added to subsection (3),
27 paragraph (a) of subsection (4) and paragraph (b) of
28 subsection (7) are amended, and subsection (22) is added to
29 section 539.001, Florida Statutes, 1996 Supplement, to read:

30 539.001 The Florida Pawnbroking Act.--

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

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

4 (u) "Operator" means a person who has charge of a
5 corporation or company and has control of its business, or of
6 its branch establishments, divisions, or departments, and who
7 is vested with a certain amount of discretion and independent
8 judgment.

9 (3) LICENSE REQUIRED.--

10 (f) Any person applying for or renewing a local
11 occupational license to engage in business as a pawnbroker
12 must exhibit a current license from the agency before the
13 local occupational license may be issued or reissued.

14 (4) ELIGIBILITY FOR LICENSE.--

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

- 17 1. Be of good moral character;
- 18 2. Have a net worth of at least \$50,000 or file with
19 the agency a bond issued by a surety company qualified to do
20 business in this state in the amount of \$10,000 for each
21 license. In lieu of the bond required in this section, the
22 applicant may establish a certificate of deposit or an
23 irrevocable letter of credit in a Florida banking institution
24 in the amount of the bond. The original bond, certificate of
25 deposit, or letter of credit shall be filed with the agency,
26 and the agency shall be the beneficiary to said document. The
27 bond, certificate of deposit, or letter of credit shall be in
28 favor of the agency for the use and benefit of any consumer
29 who is injured by the fraud, misrepresentation, breach of
30 contract, financial failure, or violation of any provision of
31 this section by the pawnbroker. Such liability may be enforced

1 either by proceeding in an administrative action or by filing
 2 a judicial suit at law in a court of competent jurisdiction.
 3 However, in such court suit, the bond, certificate of deposit,
 4 or letter of credit posted with the agency shall not be
 5 amenable or subject to any judgment or other legal process
 6 issuing out of or from such court in connection with such
 7 lawsuit, but such bond, certificate of deposit, or letter of
 8 credit shall be amenable to and enforceable only by and
 9 through administrative proceedings before the agency. It is
 10 the intent of the Legislature that such bond, certificate of
 11 deposit, or letter of credit shall be applicable and liable
 12 only for the payment of claims duly adjudicated by order of
 13 the agency. The bond, certificate of deposit, or letter of
 14 credit shall be payable on a pro rata basis as determined by
 15 the agency, but the aggregate amount may not exceed the amount
 16 of the bond, certificate of deposit, or letter of credit.

17 3. Not have been convicted of, or found guilty of, or
 18 pled guilty or nolo contendere to, regardless of adjudication,
 19 a felony within the last 10 years and not be acting as a
 20 beneficial owner for someone who has been convicted of, or
 21 found guilty of, or pled guilty or nolo contendere to,
 22 regardless of adjudication, a felony within the last 10 years;
 23 and

24 4. Not have been convicted of, or found guilty of, or
 25 pled nolo contendere to, regardless of adjudication, a crime
 26 that the agency finds directly relates to the duties and
 27 responsibilities of a pawnbroker within the last 10 years, and
 28 not be acting as a beneficial owner for someone who has been
 29 convicted, of, or found guilty of, or pled guilty or nolo
 30 contendere to, regardless of adjudication, a crime that the
 31

1 agency finds directly relates to the duties and
2 responsibilities of a pawnbroker within the last 10 years.

3 (7) ORDERS IMPOSING PENALTIES.--

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

6 1. Issuing a notice of noncompliance pursuant to s.
7 120.695.

8 ~~2.1.~~ Imposing an administrative fine not to exceed
9 \$5,000 for each act which constitutes a violation of this
10 section or a rule or an order.

11 ~~3.2.~~ Directing that the pawnbroker cease and desist
12 specified activities.

13 ~~4.3.~~ Refusing to license or revoking or suspending a
14 license.

15 ~~5.4.~~ Placing the licensee on probation for a period of
16 time, subject to such conditions as the agency may specify.

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

18 (22) RULEMAKING AUTHORITY.--The department has
19 authority to adopt rules pursuant to chapter 120 to implement
20 the provisions of this section.

21 Section 20. Paragraph (a) of subsection (1) of section
22 559.801, Florida Statutes, is amended to read:

23 559.801 Definitions.--For the purpose of ss.
24 559.80-559.815, the term:

25 (1)(a) "Business opportunity" means the sale or lease
26 of any products, equipment, supplies, or services which are
27 sold or leased to a purchaser to enable the purchaser to start
28 a business for which the purchaser is required to pay an
29 initial fee or sum of money which exceeds \$500 to the seller,
30 and in which the seller represents:

31

1 1. That the seller or person or entity affiliated with
2 or referred by the seller will provide locations or assist the
3 purchaser in finding locations for the use or operation of
4 vending machines, racks, display cases, currency or card
5 operated equipment, or other similar devices or
6 currency-operated amusement machines or devices on premises
7 neither owned nor leased by the purchaser or seller;

8 2. That the seller will purchase any or all products
9 made, produced, fabricated, grown, bred, or modified by the
10 purchaser using in whole or in part the supplies, services, or
11 chattels sold to the purchaser;

12 3. That the seller guarantees in writing that the
13 purchaser will derive income from the business opportunity
14 which exceeds the price paid or rent charged for the business
15 opportunity or that the seller will refund all or part of the
16 price paid or rent charged for the business opportunity, or
17 will repurchase any of the products, equipment, supplies, or
18 chattels supplied by the seller, if the purchaser is
19 unsatisfied with the business opportunity; or

20 4. That the seller will provide a sales program or
21 marketing program that will enable the purchaser to derive
22 income from the business opportunity, except that this
23 paragraph does not apply to the sale of a sales program or
24 marketing program made in conjunction with the licensing of a
25 trademark or service mark that is registered under the laws of
26 any state or of the United States.

27
28 For the purpose of subparagraph 1., the term "assist the
29 purchaser in finding locations" means, but is not limited to,
30 supplying the purchaser with names of locator companies,
31 contracting with the purchaser to provide assistance or supply

1 names, or collecting a fee on behalf of or for a locator
2 company.

3 Section 21. Paragraph (c) of subsection (11) of
4 section 559.803, Florida Statutes, is amended to read:

5 559.803 Disclosure statement.--At least 3 working days
6 prior to the time the purchaser signs a business opportunity
7 contract, or at least 3 working days prior to the receipt of
8 any consideration by the seller, whichever occurs first, the
9 seller must provide the prospective purchaser a written
10 document, the cover sheet of which is entitled in at least
11 12-point boldfaced capital letters "DISCLOSURES REQUIRED BY
12 FLORIDA LAW." Under this title shall appear the following
13 statement in at least 10-point type: "The State of Florida
14 has not reviewed and does not approve, recommend, endorse, or
15 sponsor any business opportunity. The information contained
16 in this disclosure has not been verified by the state. If you
17 have any questions about this investment, see an attorney
18 before you sign a contract or agreement." Nothing except the
19 title and required statement shall appear on the cover sheet.
20 Immediately following the cover sheet, the seller must provide
21 an index page that briefly lists the contents of the
22 disclosure document as required in this section and any pages
23 on which the prospective purchaser can find each required
24 disclosure. At the top of the index page, the following
25 statement must appear in at least 10-point type: "The State of
26 Florida requires sellers of business opportunities to disclose
27 certain information to prospective purchasers. This index is
28 provided to help you locate this information." If the index
29 contains other information not required by this section, the
30 seller shall place a designation beside each of the
31 disclosures required by this section and provide an

1 explanation of the designation at the end of the statement at
2 the top of the index page. The disclosure document shall
3 contain the following information:

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

6 (c) Is subject to any currently effective state or
7 federal agency or court injunctive or restrictive order, or
8 has been subject to any administrative action in which an
9 order by a governmental agency was rendered, or is a party to
10 a proceeding currently pending in which such order is sought,
11 relating to or affecting business opportunities activities or
12 the business opportunity seller-purchaser relationship or
13 involving fraud (including violation of any franchise or
14 business opportunity law or unfair or deceptive practices
15 law), embezzlement, fraudulent conversion, misappropriation of
16 property, or restraint of trade.

17
18 Such statement shall set forth the identity and location of
19 the court or agency; the date of conviction, judgment, or
20 decision; the penalty imposed; the damages assessed; the terms
21 of settlement or the terms of the order; and the date, nature,
22 and issuer of each such order or ruling. A business
23 opportunity seller may include a summary opinion of counsel as
24 to any pending litigation, but only if counsel's consent to
25 the use of such opinion is included in the disclosure
26 statement.

27 Section 22. Subsection (1) of section 559.805, Florida
28 Statutes, is amended to read:

29 559.805 Filings with the department; disclosure of
30 advertisement identification number.--

31

1 (1) Every seller of a business opportunity shall
2 annually file with the department a copy of the disclosure
3 statement required by s. 559.803 prior to placing an
4 advertisement or making any other representation designed to
5 offer to, sell to, or solicit an offer to buy a business
6 opportunity from a prospective purchaser in this state and
7 shall update this filing by reporting ~~as~~ any material change
8 in the required information within 30 days after the material
9 change occurs, ~~but not less frequently than annually~~. An
10 advertisement is not placed in the state merely because the
11 publisher circulates, or there is circulated on his behalf in
12 the state, any bona fide newspaper or other publication of
13 general, regular, and paid circulation which has had more than
14 two-thirds of its circulation during the past 12 months
15 outside the state or because a radio or television program
16 originating outside the state is received in the state. If
17 the seller is required by s. 559.807 to provide a bond or
18 establish a trust account or guaranteed letter of credit, he
19 shall contemporaneously file with the department a copy of the
20 bond, a copy of the formal notification by the depository that
21 the trust account is established, or a copy of the guaranteed
22 letter of credit. Every seller of a business opportunity shall
23 file with the department a list of independent agents who will
24 engage in the offer or sale of business opportunities on
25 behalf of the seller in this state. This list must be kept
26 current and shall include the following information: name,
27 home and business address, telephone number, present employer,
28 social security number, and birth date. No person shall be
29 allowed to offer or sell business opportunities unless the
30 required information has been provided to the department.
31

1 Section 23. Subsection (1) of section 559.811, Florida
2 Statutes, is amended, and subsection (8) is added to said
3 section to read:

4 559.811 Contracts to be in writing; form;
5 provisions.--

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

10 Section 24. Subsection (2) of section 559.813, Florida
11 Statutes, is amended, and subsection (8) is added to said
12 section, to read:

13 559.813 Remedies; enforcement.--

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

18 1. Violated or is operating in violation of any of the
19 provisions of this part or of the rules adopted or orders
20 issued thereunder;

21 2. Made a material false statement in any application,
22 document, or record required to be submitted or retained under
23 this part;

24 3. Refused or failed, 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 4. Made a material false statement in response to any
29 request or investigation by the department, the Department of
30 Legal Affairs, or the state attorney; or

31

1 5. Has intentionally defrauded the public through
2 dishonest or deceptive means.

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

6 1. Issuing a notice of noncompliance pursuant to s.
7 120.695.

8 2. Imposing an administrative fine not to exceed
9 \$5,000 per violation for each act which constitutes a
10 violation of this part or a rule or order.

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

13 4. Refusing to issue or revoking or suspending an
14 advertisement identification number.

15 5. Placing the registrant on probation for a period of
16 time, subject to such conditions as the department may
17 specify.

18 (c) The administrative proceedings which could result
19 in the entry of an order imposing any of the penalties
20 specified in paragraph (b) shall be conducted in accordance
21 with chapter 120.~~If a business opportunity seller uses untrue~~
22 ~~or misleading statements in the sale of a business~~
23 ~~opportunity, fails to give the proper disclosures, fails to~~
24 ~~include the contract provisions, fails to post the bond as~~
25 ~~required in this part, or violates any other provision of this~~
26 ~~part, the department may order the seller to cease and desist~~
27 ~~selling business opportunities until the seller complies with~~
28 ~~the provisions of this part. The department also may impose~~
29 ~~an administrative fine not to exceed \$5,000 per violation.~~

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

1 Section 25. Subsections (6), (7), and (8) of section
2 559.903, Florida Statutes, are amended to read:

3 559.903 Definitions.--As used in this act:

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

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

19 (8) "Place of business" means a physical place where
20 the business of motor vehicle repair is conducted, including
21 any vehicle constituting a mobile motor vehicle repair shop
22 from which the business of motor vehicle repair is conducted.

23 Section 26. Section 559.904, Florida Statutes, is
24 amended to read:

25 559.904 Motor vehicle repair shop registration;
26 application; exemption.--

27 (1) Each motor vehicle repair shop engaged or
28 attempting to engage in the business of motor vehicle repair
29 work must register with the department prior to doing business
30 in this state. The application for registration must be on a
31

1 form provided by the department and must include at least the
2 following information:

3 (a) The name of the applicant.

4 (b) The name under which the applicant is doing
5 business.

6 (c) The business address at which the applicant
7 performs repair work or in the case of a mobile motor vehicle
8 repair shop, the home address of the owner, if different from
9 the business address.

10 (d) Copies of all licenses, permits, and
11 certifications obtained by the applicant or employees of the
12 applicant.

13 (e) Number of employees which the applicant intends to
14 employ or which are currently employed.

15 (2) Any motor vehicle repair shop maintaining more
16 than one place of business may file a single application
17 annually, which, along with the other information required by
18 this part, clearly indicates the location of and the
19 individual in charge of each facility or in the case of a
20 mobile motor vehicle repair shop, the home address of the
21 owner, if different from the business address. In such case,
22 fees shall be paid for each place of business location.

23 (3) Each application for registration must be
24 accompanied by a registration fee set forth as follows:

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

27 (b)~~(a)~~ If the place of business has 1 to 5 employees:
28 \$50~~\$25.~~

29 (c)~~(b)~~ If the place of business has 6 to 10 employees:
30 \$150.

31

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

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

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

20 (6) Any affidavit of exemption proof of filing
21 certificate, issued by the department prior to July 1, 1997,
22 to a motor vehicle repair shop conducting only minor repair
23 services shall be valid until its expiration. ~~Each motor~~
24 ~~vehicle repair shop which performs only "minor repairs" is~~
25 ~~exempt from the provisions of subsections (1)-(5); however,~~
26 ~~any motor vehicle repair shop claiming to be exempt shall~~
27 ~~annually file with the department an affidavit of exemption~~
28 ~~accompanied by a \$10 fee prior to engaging in business in this~~
29 ~~state. The affidavit of exemption shall be on forms~~
30 ~~prescribed by the department and shall include the name of the~~
31 ~~business and the business address where minor repair is~~

1 ~~performed. Any motor vehicle repair shop maintaining more than~~
2 ~~one business, each of which performs only minor repairs, may~~
3 ~~file a single affidavit of exemption annually, which, along~~
4 ~~with the other information required by this part, clearly~~
5 ~~indicates the location and individual in each place of~~
6 ~~business. In such case, fees shall be paid for each location.~~
7 ~~Notwithstanding any exemption from the provisions of~~
8 ~~subsections (1)-(5), all other provisions of this part shall~~
9 ~~apply to any motor vehicle repair shop claiming to perform~~
10 ~~only minor repairs.~~

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

18 (8) Each registration ~~and affidavit of exemption~~ must
19 be renewed annually.

20 (9) No annual registration application or fee is
21 required for an individual with no employees and no
22 established place of business. In the case of a mobile motor
23 vehicle repair shop, the established place of business shall
24 be considered the home address of the owner, if different than
25 the business address.

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

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

1 (b) Has not satisfied a civil fine, administrative
2 fine, or other penalty arising out of any administrative or
3 enforcement action brought by any governmental agency based
4 upon conduct involving fraud, dishonest dealing, or any
5 violation of this part;

6 (c) Has had against him any civil, criminal, or
7 administrative adjudication in any jurisdiction, based upon
8 conduct involving fraud, dishonest dealing, or any violation
9 of this part; or

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

13 Section 27. Subsections (1) and (2) of section
14 559.905, Florida Statutes, are amended to read:

15 559.905 Written motor vehicle repair estimate and
16 disclosure statement required.--

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

25 (a) The name, address, and telephone number of the
26 motor vehicle repair shop.

27 (b) The name, address, and telephone number of the
28 customer.

29 (c) The date and time of the written repair estimate.

30 (d) The year, make, model, odometer reading, and
31 license tag number of the motor vehicle.

1 (e) The proposed work completion date.

2 (f) A general description of the customer's problem or
3 request for repair work or service relating to the motor
4 vehicle.

5 (g) A statement as to whether the customer is being
6 charged according to a flat rate or an hourly rate, or both.

7 (h) The estimated cost of repair.

8 (i) The charge for making a repair price estimate or,
9 if the charge cannot be predetermined, the basis on which the
10 charge will be calculated.

11 (j) The customer's intended method of payment.

12 (k) The name and telephone number of another person
13 who may authorize repair work, if the customer desires to
14 designate such person.

15 (l) A statement indicating what, if anything, is
16 guaranteed in connection with the repair work and the time and
17 mileage period for which the guarantee is effective.

18 (m) A statement allowing the customer to indicate
19 whether replaced parts should be saved for inspection or
20 return.

21 (n) A statement indicating the daily charge for
22 storing the customer's motor vehicle after the customer has
23 been notified that the repair work has been completed.
24 However, no storage charges shall accrue or be due and payable
25 for a period of 3 working days from the date of such
26 notification.

27 (2) If the cost of repair work will exceed \$100 ~~\$50~~,
28 the shop shall present to the customer a written notice
29 conspicuously disclosing, in a separate, blocked section, only
30 the following statement, in capital letters of at least
31 12-point type:

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

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

.... I REQUEST A WRITTEN ESTIMATE.

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

.... I DO NOT REQUEST A WRITTEN ESTIMATE.

SIGNED DATE

Section 28. Subsection (4) of section 559.921, Florida Statutes, is amended to read:

559.921 Remedies.--

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

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

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

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

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

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.

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

11 1. Issuing a notice of noncompliance pursuant to s.
12 120.695.

13 2. Imposing an administrative fine not to exceed
14 \$1,000 per violation for each act which constitutes a
15 violation of this part or a rule or order.

16 3. Directing that the motor vehicle repair shop cease
17 and desist specified activities.

18 4. Refusing to register or revoking or suspending a
19 registration.

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

23 (c) The administrative proceedings which could result
24 in the entry of an order imposing any of the penalties
25 specified in paragraph (b) shall be conducted in accordance
26 with chapter 120.~~The department may enforce the provisions of~~
27 ~~this part by imposing administrative fines not to exceed~~
28 ~~\$1,000 per violation or by taking action to suspend or revoke~~
29 ~~the registration of a motor vehicle repair shop when:~~

30 ~~(a) The business has a pattern of failing to comply~~
31 ~~with or violating the provisions of this part;~~

1 ~~(b) The business has filed an application in which any~~
2 ~~material fact is omitted or falsely stated; or~~

3 ~~(c) The business has intentionally defrauded the~~
4 ~~public through dishonest or deceptive means.~~

5
6 ~~All hearings under this subsection shall be conducted in~~
7 ~~accordance with chapter 120.~~

8 Section 29. Section 559.92201, Florida Statutes, is
9 created to read:

10 559.92201 Rulemaking power.--The department has the
11 authority to adopt rules pursuant to chapter 120 to implement
12 this part.

13 Section 30. Paragraph (b) of subsection (1) of section
14 559.9221, Florida Statutes, is amended to read:

15 559.9221 Motor Vehicle Repair Advisory Council.--The
16 Motor Vehicle Repair Advisory Council is created to advise and
17 assist the department in carrying out this part.

18 (1) The membership of the council may not exceed 11
19 members appointed by the Commissioner of Agriculture.

20 (b) One member of the council must be chosen from
21 persons already engaged solely in minor repair service ~~who are~~
22 ~~eligible to submit an affidavit of exemption and who submit~~
23 ~~such affidavit by October 1, 1993. Thereafter, the minor~~
24 ~~repair shop member of this council must file an annual~~
25 ~~affidavit of exemption pursuant to this part.~~

26 Section 31. Subsection (10) of section 559.927,
27 Florida Statutes, is amended to read:

28 559.927 Definitions.--For the purposes of this part,
29 the term:

30 (10) "Seller of travel" means any resident or
31 nonresident person, firm, corporation, or business entity who

1 offers for sale, directly or indirectly, at wholesale or
 2 retail, prearranged travel, tourist-related services, or
 3 tour-guide services for individuals or groups, including, but
 4 not limited to,~~through~~ vacation or tour packages, or ~~through~~
 5 vacation certificates in exchange for a fee, commission, or
 6 other valuable consideration. The term includes any business
 7 entity offering membership in a travel club or travel services
 8 for an advance fee or payment, even if no travel contracts or
 9 certificates or vacation or tour packages are sold by the
 10 business entity.

11 Section 32. Subsection (2) of section 559.928, Florida
 12 Statutes, is amended, subsections (3), (4), (5), (6), (7), and
 13 (8) are renumbered as subsections (4), (5), (6), (7), (8), and
 14 (9), respectively, and a new subsection (3) is added to said
 15 section, to read:

16 559.928 Registration.--

17 (2) Registration fees shall be ~~in an amount equal to~~
 18 ~~the costs to the department of implementing and enforcing this~~
 19 ~~part. However, such fee may not be greater than \$300 per year~~
 20 per registrant. All amounts collected shall be deposited by
 21 the Treasurer to the credit of the General Inspection Trust
 22 Fund of the Department of Agriculture and Consumer Services
 23 pursuant to s. 570.20, for the sole purpose of administration
 24 of this part.

25 Each independent agent shall annually file an affidavit
 26 with the department prior to engaging in business in this
 27 state. This affidavit must include the independent agent's
 28 full name, legal business or trade name, mailing address,
 29 business address, telephone number, social security number,
 30 and the name or names and addresses of each seller of travel
 31 represented by the independent agent. A letter evidencing

1 proof of filing must be issued by the department and must be
 2 prominently displayed in the independent agent's primary place
 3 of business. As used in this subsection, the term
 4 "independent agent" means a person who represents a seller of
 5 travel by soliciting persons on its behalf; who has a written
 6 contract with a seller of travel which is operating in
 7 compliance with this part and any rules adopted thereunder;
 8 who does not receive a fee, commission, or other valuable
 9 consideration directly from the purchaser for the seller of
 10 travel; who does not at any time have any unissued ticket
 11 stock or travel documents in his or her possession; and who
 12 does not have the ability to issue tickets, vacation
 13 certificates, or any other travel document. The term
 14 "independent agent" does not include an affiliate of the
 15 seller of travel, as that term is used in s. 559.935(3), or
 16 the employees of the seller of travel or of such affiliates.

17 Section 33. Subsection (1) of section 559.929, Florida
 18 Statutes, 1996 Supplement, is amended to read:

19 559.929 Security requirements.--

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

26 Section 34. Section 559.9295, Florida Statutes, is
 27 amended to read:

28 559.9295 Submission of vacation certificate
 29 documents.--Sellers of travel who offer vacation certificates
 30 must submit and disclose to the department with the
 31 application for registration, and any time such document is

1 changed, but prior to the sale of any vacation certificate,
2 the following materials:

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

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

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

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

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

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

28 (7) A complete copy of the original of each
29 testimonial letter from previous vacation certificate
30 purchasers utilized in advertisements disseminated in
31

1 connection with advertising, promotion, or sale of vacation
2 certificates.

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

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

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

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

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

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

28 (14) A listing of the full name, address, and
29 telephone number of each person through which the distribution
30 and sale of vacation certificates is to be carried out,
31 including the number of vacation certificates allocated or

1 sold to each such person and the name and address of a Florida
2 registered agent for service of process.

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

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

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

1 Section 35. Paragraph (g) is added to subsection (11)
2 of section 559.9335, Florida Statutes, subsections (12), (13),
3 (14), (15), (16), (17), (18), (19), (20), (21), (22), and
4 (23), are renumbered as subsections (14), (15), (16), (17),
5 (18), (19), (20), (21), (22), (23), (24), and (25),
6 respectively, and new subsections (12) and (13) are added to
7 said section, to read:

8 559.9335 Violations.--It is a violation of this part
9 for any person:

10 (11) To misrepresent or deceptively represent:

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

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

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

22 Section 36. Subsections (1) and (3) of section
23 559.9355, Florida Statutes, are amended to read:

24 559.9355 Administrative remedies; penalties.--

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

30 (a)(e) Issuing a notice of noncompliance pursuant to
31 s. 120.695 of a letter of concern.

1 **(b)**~~(a)~~ Imposing an administrative fine not to exceed
2 \$5,000 for each act or omission.
3 **(c)**~~(b)~~ Directing that the person ~~seller of travel~~
4 cease and desist specified activities.
5 **(d)**~~(c)~~ Refusing to register or canceling or suspending
6 a registration.
7 **(e)**~~(d)~~ Placing the registrant on probation for a
8 period of time, subject to such conditions as the department
9 may specify.
10 (f) Canceling an exemption granted under s. 559.935.
11 (3) The department has the authority to adopt ~~may~~
12 ~~adopt any reasonable rules~~ rule pursuant to chapter 120 to
13 implement ~~to carry out the provisions of~~ this section and ss.
14 559.928, 559.929, 559.934, and 559.935.
15 Section 37. Section 559.8015, Florida Statutes, is
16 hereby repealed.
17 Section 38. This act shall take effect July 1, 1997.
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