

1
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; providing retroactive
21 application of an exemption under certain
22 circumstances; amending s. 501.021, F.S.;
23 deleting the definition of "division" with
24 respect to home solicitation sales; amending s.
25 501.022, F.S.; deleting language with respect
26 to persons engaging in home solicitation sales
27 in more than one county in the state to
28 eliminate certain certificates; amending s.
29 501.052, F.S.; providing that the Attorney
30 General or state attorney shall enforce the
31 act; amending s. 501.143, F.S.; providing for

1 registration fees with respect to dance
2 studios; eliminating reference to such fees set
3 by the department; providing for penalties for
4 violations of rules or orders adopted pursuant
5 to such rules; revising language with respect
6 to rulemaking authority; amending s. 501.605,
7 F.S.; providing for the fee for licensing of
8 commercial telephone sellers; deleting
9 reference to the authority of the department to
10 set such fees; amending s. 501.607, F.S.;
11 revising language with respect to licensure of
12 salespersons; eliminating reference to the
13 department to set license fees; amending s.
14 501.612, F.S.; revising language with respect
15 to grounds for denial of licensure; amending s.
16 501.626, F.S.; revising language with respect
17 to rulemaking authority; amending s. 501.925,
18 F.S.; revising conditions under which a watch
19 is considered a used watch; amending s.
20 539.001, F.S.; revising the Florida Pawnbroking
21 Act to provide definitions, to provide that
22 local occupational licenses may not be issued
23 without providing proof of a state license,
24 revising language with respect to
25 administrative penalties; providing for a
26 notice of noncompliance rather than a letter of
27 concern, and to provide for rulemaking
28 authority; amending ss. 559.801-559.813, F.S.;
29 revising the Sale of Business Opportunities
30 Act; revising definitions; revising language
31 with respect to the disclosure statement;

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

1 to respond with respect to document
2 submissions; amending s. 559.9335, F.S.;
3 providing for additional acts which are
4 violations; revising language with respect to
5 rules; amending s. 559.9355, F.S.; revising
6 language with respect to administrative
7 remedies and penalties; repealing s. 559.8015,
8 F.S., relating to applicability to advertisers
9 of business opportunities; providing an
10 effective date.

11

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

13

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

17 496.405 Registration statements by charitable
18 organizations and sponsors.--

19 (4)

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

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

1 receipt of a statement, the department must examine the
2 statement, notify the applicant of any apparent errors or
3 omissions, and request any additional information the
4 department is allowed by law to require. Failure to correct an
5 error or omission or to supply additional information is not
6 grounds for denial of the initial registration or annual
7 renewal statement unless the department has notified the
8 applicant within the 10-working-day ~~10-day~~ period. The
9 department must approve or deny each statement, or must notify
10 the applicant that the activity for which he seeks
11 registration is exempt from the registration requirement,
12 within 10 working days after receipt of the initial
13 registration or annual renewal statement or the requested
14 additional information or correction of errors or omissions.
15 Any statement that is not approved or denied within 10 working
16 days after receipt of the requested additional information or
17 correction of errors or omissions is approved. Within 7
18 working days after receipt of a notification that the
19 registration requirements are not satisfied, the charitable
20 organization or sponsor may request a hearing. The hearing
21 must be held within 7 working days after receipt of the
22 request, and any recommended order, if one is issued, must be
23 rendered within 3 working days of the hearing. The final order
24 must then be issued within 2 working days after the
25 recommended order. If a recommended order is not issued, the
26 final order must be issued within 5 working days after the
27 hearing. The proceedings must be conducted in accordance with
28 chapter 120, except that the time limits and provisions set
29 forth in this subsection prevail to the extent of any
30 conflict.
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1 Section 2. Subsection (1), paragraphs (a), (b), and
2 (c) of subsection (4), and subsections (5), (8), and (9) of
3 section 496.419, Florida Statutes, are amended to read:

4 496.419 Powers of the department.--

5 (1) The department may conduct an investigation of any
6 person or organization whenever there is an appearance, either
7 upon complaint or otherwise, that a violation of ss.
8 496.401-496.424 or s. 496.426 or of any rule adopted or of any
9 order issued pursuant thereto has been committed or is about
10 to be committed.

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

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

19 (b) Made a material false statement in an application,
20 statement, or report required to be filed under ss.
21 496.401-496.424 or s. 496.426;

22 (c) Refused or failed, or any of its principal
23 officers has refused or failed, after notice, to produce any
24 records of such organization or to disclose any information
25 required to be disclosed under ss. 496.401-496.424 or s.
26 496.426 or the rules of the department; or

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

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

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

3 (c) Refusing to register or canceling or suspending a
4 registration;

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

8 ~~(e)(f)~~ Canceling an exemption granted under s.
9 496.406; ~~and-~~

10 ~~(f)(a)~~ Imposing an administrative fine not to exceed
11 \$1,000 for each act or omission which constitutes a violation
12 of ss. 496.401-496.424 or s. 496.426 or a rule or order. ~~+~~

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

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

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

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

1 496.420 Civil remedies and enforcement.--

2 (1) In addition to other remedies authorized by law,
3 the Department of Legal Affairs may bring a civil action in
4 circuit court to enforce ss. 496.401-496.424 or s. 496.426.
5 Upon a finding that any person has violated any of these
6 sections, a court may make any necessary order or enter a
7 judgment including, but not limited to, a temporary or
8 permanent injunction, a declaratory judgment, the appointment
9 of a master or receiver, the sequestration of assets, the
10 reimbursement of persons from whom contributions have been
11 unlawfully solicited, the distribution of contributions in
12 accordance with the charitable or sponsor purpose expressed in
13 the registration statement or in accordance with the
14 representations made to the person solicited, the
15 reimbursement of the department for investigative costs and of
16 the Department of Legal Affairs for attorney's fees and costs,
17 including investigative costs, and any other equitable relief
18 the court finds appropriate. Upon a finding that any person
19 has violated any provision of ss. 496.401-496.424 or s.
20 496.426 with actual knowledge or knowledge fairly implied on
21 the basis of objective circumstances, a court may enter an
22 order imposing a civil penalty in an amount not to exceed
23 \$10,000 per violation.

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

1 of the parties or voided by a court for good cause, subsequent
2 failure to comply with the terms of an assurance is prima
3 facie evidence of a violation of one or more of these
4 sections.

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

7 496.424 Rulemaking authority.--The department has the
8 authority to ~~may~~ adopt rules pursuant to chapter 120 to
9 implement ~~necessary to effectuate the purposes of~~ ss.
10 496.401-496.424 or s. 496.426.

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

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

18 (5) A country club that has as its primary function
19 the provision of a social life and recreational amenities to
20 its members, and for which a program of physical exercise is
21 merely incidental to membership. As used in this subsection,
22 the term "country club" means a facility that offers its
23 members a variety of services that may include, but need not
24 be limited to, social activities; dining, banquet, catering,
25 and lounge facilities; swimming; yachting; golf; tennis; card
26 games such as bridge and canasta; and special programs for
27 members' children. Upon the filing of an affidavit with the
28 department establishing that the stated qualifications of this
29 subsection were met before July 1, 1997, this subsection will
30 apply retroactively to the date that the country club met
31 these qualifications.

1 Section 6. Section 501.014, Florida Statutes, is
2 amended to read:

3 501.014 Health studios; powers and duties of the
4 department.--

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

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

14 ~~(3)(2)~~ The department shall:

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

17 (a)(b) Provide each business location of a health
18 studio with a registration number at the time of registration.

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

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

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

26 501.015 Health studios; registration requirements and
27 fees.--Each health studio shall:

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

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1 (6) Include the registration number issued by the
2 department in all printed advertisements, contracts, and
3 publications utilized by the health studio for a business
4 location.

5 Section 8. Section 501.016, Florida Statutes, is
6 amended to read:

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

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

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

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

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

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

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

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

1 department with an annually updated list of members. Failure
2 to file an annual report will result in the department raising
3 the security requirement to \$50,000.

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

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

1 ~~requirements of subsections (1) and (2). Those health studios~~
2 ~~that have been in business continuously since October 1, 1988,~~
3 ~~are exempt effective October 1, 1993, from the requirements of~~
4 ~~subsections (1) and (2). Those health studios that have been~~
5 ~~in business continuously since October 1, 1989, are exempt~~
6 ~~effective October 1, 1994, from the requirements of~~
7 ~~subsections (1) and (2).~~Such exemption extends to all current
8 and future business locations of an exempt health studio.

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

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

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

26 501.019 Health studios; penalties.--

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 health studio:

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- 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. The department may impose
16 administrative fines as prescribed below:
- 17 ~~(a) For a violation of s. 501.016, a fine not to~~
18 ~~exceed \$5,000 per violation.~~
- 19 (b) Upon a finding as set forth in paragraph (a), the
20 department may enter an order doing one or more of the
21 following:
- 22 1. Issuing a notice of noncompliance pursuant to s.
23 120.695.
- 24 2. For a violation of s. 501.015 or s. 501.016,
25 imposing an administrative fine not to exceed \$5,000 per
26 violation.
- 27 3. For a violation of s. 501.013, s. 501.017, or s.
28 501.018, imposing an administrative a fine not to exceed \$500
29 per violation.
- 30 4. Directing that the health studio cease and desist
31 specified activities.

1 5. Refusing to register or revoking or suspending a
2 registration.

3 6. Placing the registrant on probation for a period of
4 5 years, subject to such conditions as the department may
5 specify by rule.

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

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

13 501.021 Home solicitation sale; definitions.--As used
14 in ss. 501.021-501.055:

15 ~~(1) "Division" means the Division of Consumer Services~~
16 ~~of the Department of Agriculture and Consumer Services.~~

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

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

30 (b) The buyer's agreement or offer to purchase is
31 given to the seller and the sale, lease, or rental is

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

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

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

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

25 501.022 Home solicitation sale; permit required.--

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

1 (6) The issuing clerk of the circuit court for the
2 county shall notify each applicant or permitholder of a
3 decision to deny, suspend, or revoke a permit by certified
4 mail sent to any one of the last addresses submitted by the
5 applicant or permitholder. ~~A copy of the notice shall be sent
6 to the division.~~

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

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

27 Section 12. Section 501.052, Florida Statutes, is
28 amended to read:

29 501.052 Home solicitation sale; enforcement authority;
30 injunctive relief.--~~The division shall investigate any
31 complaints received concerning violations of ss.~~

1 ~~501.021-501.055 and report the results of its investigation to~~
2 ~~the Attorney General or state attorney, and it may institute~~
3 ~~proceedings to enjoin any person found by the division to be~~
4 ~~violating the provisions of ss. 501.021-501.055.~~

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

9 501.143 Dance Studio Act.--

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

11 (d) Registration fees shall be ~~set by department rule~~
12 ~~in an amount equal to the costs to the department of~~
13 ~~implementing and enforcing this section. However, such fee~~
14 ~~shall be based on the number of clients and may not be greater~~
15 ~~than \$300 per year for each dance studio location per~~
16 ~~registrant. All amounts collected shall be deposited in the~~
17 ~~General Inspection Trust Fund of the Department of Agriculture~~
18 ~~and Consumer Services for the administration of this section.~~

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

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

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

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

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

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

20 Section 14. Paragraph (b) of subsection (5) of section
21 501.605, Florida Statutes, 1996 Supplement, is amended to
22 read:

23 501.605 Licensure of commercial telephone sellers.--

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

26 (b) A fee for licensing in the amount of, ~~to be set by~~
27 ~~rule of the department, sufficient to cover the administrative~~
28 ~~costs of this part, but not to exceed \$1,500.~~ The fee shall
29 be deposited into the General Inspection Trust Fund.
30
31

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

4 501.607 Licensure of salespersons.--

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

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

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

22 (2) An application filed pursuant to this section must
23 be verified and be 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 \$50 per salesperson.~~

27 The fee shall be deposited into the General Inspection Trust
28 Fund. The fee for licensing may be paid after the application
29 is filed, but must be paid within 14 days after the applicant
30 begins work as a salesperson.

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1 Section 16. Section 501.612, Florida Statutes, 1996
2 Supplement, is amended to read:

3 501.612 Grounds for denial of licensure.--

4 (1) The department may enter an order directing that
5 one or more of the actions set forth in subsection (2) be
6 taken if the department finds that a commercial telephone
7 seller or salesperson or any person applying for licensure as
8 a commercial telephone seller or salesperson, including, but
9 not limited to, owners, operators, officers, directors,
10 partners, or other individuals engaged in the management
11 activities of a business entity deny licensure to any
12 applicant who:

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

21 (b) Has, regardless of adjudication, been convicted or
22 found guilty of, or has entered a plea of guilty or a plea of
23 nolo contendere to, any felony;

24 (c) ~~(b)~~ Has had entered against him or any business for
25 which he has worked or been affiliated, an injunction, a
26 temporary restraining order, or a final judgment or order,
27 including a stipulated judgment or order, an assurance of
28 voluntary compliance, or any similar document, in any civil or
29 administrative action involving racketeering, fraud, theft,
30 embezzlement, fraudulent conversion, or misappropriation of
31 property or the use of any untrue or misleading representation

1 in an attempt to sell or dispose of real or personal property
2 or the use of any unfair, unlawful, or deceptive trade
3 practice;

4 (d)~~(c)~~ Is subject to or has worked or been affiliated
5 with any company which is, or ever has been, subject to any
6 injunction, temporary restraining order, or final judgment or
7 order, including a stipulated judgment or order, an assurance
8 of voluntary compliance, or any similar document, or any
9 restrictive court order relating to a business activity as the
10 result of any action brought by a governmental agency,
11 including any action affecting any license to do business or
12 practice an occupation or trade;

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

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

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

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

30 or

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

1 ~~of chapter 120 and presided over by a hearing officer~~
2 ~~designated by the Department of Agriculture and Consumer~~
3 ~~Services. When any hearing officer conducts a hearing~~
4 ~~pursuant to the provisions of chapter 120 with respect to the~~
5 ~~issuance of a license by the Department of Agriculture and~~
6 ~~Consumer Services, the hearing officer shall submit his~~
7 ~~recommendation order to the Department of Agriculture and~~
8 ~~Consumer Services, which shall thereupon issue a final order~~
9 ~~of the Department of Agriculture and Consumer Services in~~
10 accordance with the provisions of chapter 120.

11 Section 17. Section 501.626, Florida Statutes, is
12 amended to read:

13 501.626 Rulemaking power.--The department has the
14 authority to adopt ~~shall promulgate~~ rules pursuant to chapter
15 120 to implement and carry out the provisions of this part.

16 Section 18. Paragraph (b) of subsection (5) of section
17 501.925, Florida Statutes, is amended to read:

18 501.925 Used watches; sales regulated.--

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

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

30 Section 19. Paragraphs (t) and (u) are added to
31 subsection (2), paragraph (f) is added to subsection (3),

1 paragraph (a) of subsection (4) and paragraph (b) of
2 subsection (7) are amended, and subsection (22) is added to
3 section 539.001, Florida Statutes, 1996 Supplement, to read:
4 539.001 The Florida Pawnbroking Act.--
5 (2) DEFINITIONS.--As used in this section, the term:
6 (t) "Beneficial owner" means a person who does not
7 have title to property but has rights in the property which
8 are the normal incident of owning the property.
9 (u) "Operator" means a person who has charge of a
10 corporation or company and has control of its business, or of
11 its branch establishments, divisions, or departments, and who
12 is vested with a certain amount of discretion and independent
13 judgment.
14 (3) LICENSE REQUIRED.--
15 (f) Any person applying for or renewing a local
16 occupational license to engage in business as a pawnbroker
17 must exhibit a current license from the agency before the
18 local occupational license may be issued or reissued.
19 (4) ELIGIBILITY FOR LICENSE.--
20 (a) To be eligible for a pawnbroker's license, an
21 applicant must:
22 1. Be of good moral character;
23 2. Have a net worth of at least \$50,000 or file with
24 the agency a bond issued by a surety company qualified to do
25 business in this state in the amount of \$10,000 for each
26 license. In lieu of the bond required in this section, the
27 applicant may establish a certificate of deposit or an
28 irrevocable letter of credit in a Florida banking institution
29 in the amount of the bond. The original bond, certificate of
30 deposit, or letter of credit shall be filed with the agency,
31 and the agency shall be the beneficiary to said document. The

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

22 3. Not have been convicted of, or found guilty of, or
23 pled guilty or nolo contendere to, regardless of adjudication,
24 a felony within the last 10 years and not be acting as a
25 beneficial owner for someone who has been convicted of, or
26 found guilty of, or pled guilty or nolo contendere to,
27 regardless of adjudication, a felony within the last 10 years;
28 and

29 4. Not have been convicted of, or found guilty of, or
30 pled nolo contendere to, regardless of adjudication, a crime
31 that the agency finds directly relates to the duties and

1 responsibilities of a pawnbroker within the last 10 years, and
2 not be acting as a beneficial owner for someone who has been
3 convicted, of, or found guilty of, or pled guilty or nolo
4 contendere to, regardless of adjudication, a crime that the
5 agency finds directly relates to the duties and
6 responsibilities of a pawnbroker within the last 10 years.

7 (7) ORDERS IMPOSING PENALTIES.--

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

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

12 2.1. Imposing an administrative fine not to exceed
13 \$5,000 for each act which constitutes a violation of this
14 section or a rule or an order.

15 3.2. Directing that the pawnbroker cease and desist
16 specified activities.

17 4.3. Refusing to license or revoking or suspending a
18 license.

19 5.4. Placing the licensee on probation for a period of
20 time, subject to such conditions as the agency may specify.

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

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

25 Section 20. Paragraph (a) of subsection (1) of section
26 559.801, Florida Statutes, is amended to read:

27 559.801 Definitions.--For the purpose of ss.
28 559.80-559.815, the term:

29 (1)(a) "Business opportunity" means the sale or lease
30 of any products, equipment, supplies, or services which are
31 sold or leased to a purchaser to enable the purchaser to start

1 a business for which the purchaser is required to pay an
2 initial fee or sum of money which exceeds \$500 to the seller,
3 and in which the seller represents:
4 1. That the seller or person or entity affiliated with
5 or referred by the seller will provide locations or assist the
6 purchaser in finding locations for the use or operation of
7 vending machines, racks, display cases, currency or card
8 operated equipment, or other similar devices or
9 currency-operated amusement machines or devices on premises
10 neither owned nor leased by the purchaser or seller;
11 2. That the seller will purchase any or all products
12 made, produced, fabricated, grown, bred, or modified by the
13 purchaser using in whole or in part the supplies, services, or
14 chattels sold to the purchaser;
15 3. That the seller guarantees in writing that the
16 purchaser will derive income from the business opportunity
17 which exceeds the price paid or rent charged for the business
18 opportunity or that the seller will refund all or part of the
19 price paid or rent charged for the business opportunity, or
20 will repurchase any of the products, equipment, supplies, or
21 chattels supplied by the seller, if the purchaser is
22 unsatisfied with the business opportunity; or
23 4. That the seller will provide a sales program or
24 marketing program that will enable the purchaser to derive
25 income from the business opportunity, except that this
26 paragraph does not apply to the sale of a sales program or
27 marketing program made in conjunction with the licensing of a
28 trademark or service mark that is registered under the laws of
29 any state or of the United States.
30
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1 For the purpose of subparagraph 1., the term "assist the
2 purchaser in finding locations" means, but is not limited to,
3 supplying the purchaser with names of locator companies,
4 contracting with the purchaser to provide assistance or supply
5 names, or collecting a fee on behalf of or for a locator
6 company.

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

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

1 provided to help you locate this information." If the index
2 contains other information not required by this section, the
3 seller shall place a designation beside each of the
4 disclosures required by this section and provide an
5 explanation of the designation at the end of the statement at
6 the top of the index page. The disclosure document shall
7 contain the following information:

8 (11) A statement disclosing who, if any, of the
9 persons listed in subsections (1) and (2):
10 (c) Is subject to any currently effective state or
11 federal agency or court injunctive or restrictive order, or
12 has been subject to any administrative action in which an
13 order by a governmental agency was rendered, or is a party to
14 a proceeding currently pending in which such order is sought,
15 relating to or affecting business opportunities activities or
16 the business opportunity seller-purchaser relationship or
17 involving fraud (including violation of any franchise or
18 business opportunity law or unfair or deceptive practices
19 law), embezzlement, fraudulent conversion, misappropriation of
20 property, or restraint of trade.

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

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

3 559.805 Filings with the department; disclosure of
4 advertisement identification number.--

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

1 social security number, and birth date. No person shall be
2 allowed to offer or sell business opportunities unless the
3 required information has been provided to the department.

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

7 559.811 Contracts to be in writing; form;
8 provisions.--

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

13 Section 24. Subsection (2) of section 559.813, Florida
14 Statutes, is amended, and subsection (8) is added to said
15 section, to read:

16 559.813 Remedies; enforcement.--

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

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

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

27 3. Refused or failed, after notice, to produce any
28 document or record or disclose any information required to be
29 produced or disclosed under this part or the rules of the
30 department;

31

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

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

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

9 1. Issuing a notice of noncompliance pursuant to s.
10 120.695.

11 2. Imposing an administrative fine not to exceed
12 \$5,000 per violation for each act which constitutes a
13 violation of this part or a rule or order.

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

16 4. Refusing to issue or revoking or suspending an
17 advertisement identification number.

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

21 (c) The administrative proceedings which could result
22 in the entry of an order imposing any of the penalties
23 specified in paragraph (b) shall be conducted in accordance
24 with chapter 120.~~If a business opportunity seller uses untrue~~
25 ~~or misleading statements in the sale of a business~~
26 ~~opportunity, fails to give the proper disclosures, fails to~~
27 ~~include the contract provisions, fails to post the bond as~~
28 ~~required in this part, or violates any other provision of this~~
29 ~~part, the department may order the seller to cease and desist~~
30 ~~selling business opportunities until the seller complies with~~

31

1 ~~the provisions of this part. The department also may impose~~
2 ~~an administrative fine not to exceed \$5,000 per violation.~~

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

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

7 559.903 Definitions.--As used in this act:

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

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

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

27 Section 26. Section 559.904, Florida Statutes, is
28 amended to read:

29 559.904 Motor vehicle repair shop registration;
30 application; exemption.--

31

1 (1) Each motor vehicle repair shop engaged or
2 attempting to engage in the business of motor vehicle repair
3 work must register with the department prior to doing business
4 in this state. The application for registration must be on a
5 form provided by the department and must include at least the
6 following information:

7 (a) The name of the applicant.

8 (b) The name under which the applicant is doing
9 business.

10 (c) The business address at which the applicant
11 performs repair work or in the case of a mobile motor vehicle
12 repair shop, the home address of the owner, if different from
13 the business address.

14 (d) Copies of all licenses, permits, and
15 certifications obtained by the applicant or employees of the
16 applicant.

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

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

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

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

31

1 **(b)**~~(a)~~ If the place of business has 1 to 5 employees:
2 ~~\$50~~**\$25**.

3 **(c)**~~(b)~~ If the place of business has 6 to 10 employees:
4 \$150.

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

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

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

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

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

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

22 (8) Each registration ~~and affidavit of exemption~~ must
23 be renewed annually.

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

30 (10) The department may deny or refuse to renew the
31 registration of a motor vehicle repair shop based upon a

1 determination that the motor vehicle repair shop, or any of
2 its directors, officers, owners, or general partners:

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

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

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

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

17 Section 27. Subsections (1) and (2) of section
18 559.905, Florida Statutes, are amended to read:

19 559.905 Written motor vehicle repair estimate and
20 disclosure statement required.--

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

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

31

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

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

6
 7 PLEASE READ CAREFULLY, CHECK ONE OF THE STATEMENTS BELOW, AND
 8 SIGN:

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

11
 12 I REQUEST A WRITTEN ESTIMATE.

13
 14 I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE
 15 REPAIR COSTS DO NOT EXCEED \$..... THE SHOP MAY NOT EXCEED
 16 THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.

17
 18 I DO NOT REQUEST A WRITTEN ESTIMATE.

19
 20 SIGNED DATE

21
 22 Section 28. Subsection (4) of section 559.921, Florida
 23 Statutes, is amended to read:

24 559.921 Remedies.--

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

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

31

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.

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

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

18 2. Imposing an administrative fine not to exceed
19 \$1,000 per violation for each act which constitutes a
20 violation of this part or a rule or order.

21 3. Directing that the motor vehicle repair shop cease
22 and desist specified activities.

23 4. Refusing to register or revoking or suspending a
24 registration.

25 5. Placing the registrant on probation for a period of
26 time, subject to such conditions as the department may
27 specify.

28 (c) The administrative proceedings which could result
29 in the entry of an order imposing any of the penalties
30 specified in paragraph (b) shall be conducted in accordance
31 with chapter 120.~~The department may enforce the provisions of~~

1 ~~this part by imposing administrative fines not to exceed~~
2 ~~\$1,000 per violation or by taking action to suspend or revoke~~
3 ~~the registration of a motor vehicle repair shop when:~~
4 ~~(a) The business has a pattern of failing to comply~~
5 ~~with or violating the provisions of this part;~~
6 ~~(b) The business has filed an application in which any~~
7 ~~material fact is omitted or falsely stated; or~~
8 ~~(c) The business has intentionally defrauded the~~
9 ~~public through dishonest or deceptive means.~~
10
11 ~~All hearings under this subsection shall be conducted in~~
12 ~~accordance with chapter 120.~~
13 Section 29. Section 559.92201, Florida Statutes, is
14 created to read:
15 559.92201 Rulemaking power.--The department has the
16 authority to adopt rules pursuant to chapter 120 to implement
17 this part.
18 Section 30. Paragraph (b) of subsection (1) of section
19 559.9221, Florida Statutes, is amended to read:
20 559.9221 Motor Vehicle Repair Advisory Council.--The
21 Motor Vehicle Repair Advisory Council is created to advise and
22 assist the department in carrying out this part.
23 (1) The membership of the council may not exceed 11
24 members appointed by the Commissioner of Agriculture.
25 (b) One member of the council must be chosen from
26 persons already engaged solely in minor repair service ~~who are~~
27 ~~eligible to submit an affidavit of exemption and who submit~~
28 ~~such affidavit by October 1, 1993. Thereafter, the minor~~
29 ~~repair shop member of this council must file an annual~~
30 ~~affidavit of exemption pursuant to this part.~~
31

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

3 559.927 Definitions.--For the purposes of this part,
4 the term:

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

17 Section 32. Subsection (2) of section 559.928, Florida
18 Statutes, is amended, subsections (3), (4), (5), (6), (7), and
19 (8) are renumbered as subsections (4), (5), (6), (7), (8), and
20 (9), respectively, and a new subsection (3) is added to said
21 section, to read:

22 559.928 Registration.--

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

31

1 (3) Each independent agent shall annually file an
2 affidavit with the department prior to engaging in business in
3 this state. This affidavit must include the independent
4 agent's full name, legal business or trade name, mailing
5 address, business address, telephone number, social security
6 number, and the name or names and addresses of each seller of
7 travel represented by the independent agent. A letter
8 evidencing proof of filing must be issued by the department
9 and must be prominently displayed in the independent agent's
10 primary place of business. As used in this subsection, the
11 term "independent agent" means a person who represents a
12 seller of travel by soliciting persons on its behalf; who has
13 a written contract with a seller of travel which is operating
14 in compliance with this part and any rules adopted thereunder;
15 who does not receive a fee, commission, or other valuable
16 consideration directly from the purchaser for the seller of
17 travel; who does not at any time have any unissued ticket
18 stock or travel documents in his or her possession; and who
19 does not have the ability to issue tickets, vacation
20 certificates, or any other travel document. The term
21 "independent agent" does not include an affiliate of the
22 seller of travel, as that term is used in s. 559.935(3), or
23 the employees of the seller of travel or of such affiliates.

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

26 559.929 Security requirements.--

27 (1) An application must be accompanied by a
28 performance bond in an amount set by the department not to
29 exceed \$25,000, or in the an amount of ~~set by the department~~
30 ~~not to exceed~~ \$50,000 if the seller of travel is offering
31

1 vacation certificates. The surety on such bond shall be a
2 surety company authorized to do business in the state.

3 Section 34. Section 559.9295, Florida Statutes, is
4 amended to read:

5 559.9295 Submission of vacation certificate
6 documents.--Sellers of travel who offer vacation certificates
7 must submit and disclose to the department with the
8 application for registration, and any time such document is
9 changed, but prior to the sale of any vacation certificate,
10 the following materials:

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

14 (2) A copy of each promotional brochure, pamphlet,
15 form letter, registration form, or any other written material
16 disseminated in connection with the advertising, promotion, or
17 sale of any vacation certificate.

18 (3) A verbatim script of each radio, television, or
19 movie, or other similar advertisement, broadcast to the public
20 in connection with the advertising, promotion, or sale of any
21 vacation certificates.

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

25 (5) A copy of all rules, regulations, conditions, or
26 limitations upon the use of, or obtaining reservations for the
27 use of, accommodations or facilities available pursuant to the
28 vacation certificate.

29 (6) A copy of a written authorization for the use of
30 any registered trademark, trade name, or trade logo utilized
31 in promotional brochures, pamphlets, form letters,

1 registration forms, or other written materials disseminated in
2 connection with the advertising, promotion, or sale of
3 vacation certificates from the holder of each trademark, trade
4 name, or trade logo so used.

5 (7) A complete copy of the original of each
6 testimonial letter from previous vacation certificate
7 purchasers utilized in advertisements disseminated in
8 connection with advertising, promotion, or sale of vacation
9 certificates.

10 (8) Where discount or complimentary coupons or tickets
11 are to be provided to purchasers, a copy of such ticket or
12 coupon which shall include a statement of the names and
13 addresses of businesses where honored, the goods, services, or
14 amenities provided, and any additional charges, limitations,
15 or conditions.

16 (9) Where other goods, services, or amenities are
17 provided to the purchaser in addition to the right to use
18 accommodations or facilities, a description of such goods,
19 services, or amenities, including any charges, limitations, or
20 conditions, and a statement of the names and addresses of
21 business entities which are to provide or honor them.

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

24 (11) A copy of the vacation certificate and its
25 component parts, including, but not limited to, any
26 registration card, form letter, reservation form, confirmation
27 form, and lodging directory.

28 (12) A copy of any agreement between the seller and
29 business entities providing accommodations or facilities to
30 purchasers.

31

1 (13) A copy of any agreement between the seller and
2 each business entity providing or honoring discount or
3 complimentary coupons or tickets, or providing other goods,
4 services, or amenities to the purchaser.

5 (14) A listing of the full name, address, and
6 telephone number of each person through which the distribution
7 and sale of vacation certificates is to be carried out,
8 including the number of vacation certificates allocated or
9 sold to each such person and the name and address of a Florida
10 registered agent for service of process.

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

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

23 (17) Within 10-working days after receipt of any
24 materials submitted subsequent to filing an initial
25 registration application or any annual renewal thereof, the
26 department shall determine whether such materials are adequate
27 to meet the requirements of this section. The department shall
28 notify the seller of travel that materials submitted are in
29 substantial compliance, or shall notify the seller of travel
30 of any specific deficiencies. If the department fails to
31 notify the seller of travel of its determination within the

1 period specified in this paragraph, the materials shall be
2 deemed in compliance; however, the failure of the department
3 to send notification in either case will not relieve the
4 seller of travel from the duty of complying with this section.
5 Neither the submission of these materials nor the department's
6 response implies approval, recommendation, or endorsement by
7 the department or that the contents of said materials have
8 been verified by the department.

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

16 559.9335 Violations.--It is a violation of this part
17 for any person:

18 (11) To misrepresent or deceptively represent:

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

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

26 (13) To fail to include, when offering to sell a
27 vacation certificate, in any advertisement or promotional
28 material, the following statement: "This is an offer to sell
29 travel."

30 Section 36. Subsections (1) and (3) of section
31 559.9355, Florida Statutes, are amended to read:

1 559.9355 Administrative remedies; penalties.--
2 (1) The department may enter an order doing one or
3 more of the following if the department finds that a person
4 ~~seller of travel~~ has violated or is operating in violation of
5 any of the provisions of this part or the rules or orders
6 issued thereunder:
7 (a)(e) Issuing a notice of noncompliance pursuant to
8 s. 120.695 of a letter of concern.
9 (b)(a) Imposing an administrative fine not to exceed
10 \$5,000 for each act or omission.
11 (c)(b) Directing that the person ~~seller of travel~~
12 cease and desist specified activities.
13 (d)(c) Refusing to register or canceling or suspending
14 a registration.
15 (e)(d) Placing the registrant on probation for a
16 period of time, subject to such conditions as the department
17 may specify.
18 (f) Canceling an exemption granted under s. 559.935.
19 (3) The department has the authority to adopt may
20 ~~adopt any reasonable rules rule~~ pursuant to chapter 120 to
21 implement to carry out the provisions of this section and ss.
22 559.928, 559.929, 559.934, and 559.935.
23 Section 37. Section 559.8015, Florida Statutes, is
24 hereby repealed.
25 Section 38. This act shall take effect July 1, 1997.
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