

By the Committee on Governmental Reform and Oversight and
Senator Williams

302-1907A-98

1 A bill to be entitled
2 An act relating to consumer protection;
3 amending s. 213.053, F.S.; authorizing the
4 Department of Revenue to provide certain
5 information to the Department of Agriculture
6 and Consumer Services; amending s. 496.403,
7 F.S.; exempting persons or organizations who
8 solicit solely on behalf of bona fide religious
9 institutions, educational institutions, and
10 governmental entities from the provisions of
11 ss. 496.401-496.424, F.S.; amending s. 496.404,
12 F.S.; clarifying a definition; amending s.
13 496.405, F.S.; revising a registration fee
14 schedule for charitable organizations; amending
15 s. 496.406, F.S.; deleting certain registration
16 requirements for certain charitable
17 organizations; amending s. 501.143, F.S.;
18 deleting a specific annual registration date
19 for certain dance studios; amending s. 501.607,
20 F.S.; clarifying certain procedures for
21 licensing salespersons; amending s. 501.2101,
22 F.S.; authorizing the deposit of moneys
23 received by an enforcing authority for
24 attorney's fees and costs of investigation or
25 litigation to be deposited in the Legal Affairs
26 Revolving Trust Fund; amending s. 559.805,
27 F.S.; requiring business opportunity sellers to
28 disclose certain information; amending s.
29 559.904, F.S.; clarifying registration
30 requirements for motor vehicle repair shop
31 operators; providing a late fee; amending s.

1 817.415, F.S.; revising requirements for free
2 advertising; providing an effective date.

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

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6 Section 1. Paragraph (o) is added to subsection (7) of
7 section 213.053, Florida Statutes, to read:

8 213.053 Confidentiality and information sharing.--

9 (7) Notwithstanding any other provision of this
10 section, the department may provide:

11 (o) Names, addresses, and sales tax registration
12 information to the Division of Consumer Services of the
13 Department of Agriculture and Consumers Services in the
14 conduct of its official duties.

15
16 Disclosure of information under this subsection shall be
17 pursuant to a written agreement between the executive director
18 and the agency. Such agencies, governmental or
19 nongovernmental, shall be bound by the same requirements of
20 confidentiality as the Department of Revenue. Breach of
21 confidentiality is a misdemeanor of the first degree,
22 punishable as provided by s. 775.082 or s. 775.083.

23 Section 2. Section 496.403, Florida Statutes, is
24 amended to read:

25 496.403 Application.--Sections 496.401-496.424 do not
26 apply to bona fide religious institutions, educational
27 institutions, and state agencies or other government entities
28 or persons or organizations who solicit or act as professional
29 fundraising consultants solely on their behalf. Sections
30 496.401-496.424 do not apply to political contributions
31 solicited in accordance with the election laws of this state.

1 Section 3. Subsection (16) of section 496.404, Florida
2 Statutes, is amended to read:

3 496.404 Definitions.--As used in ss. 496.401-496.424:

4 (16) "Parent organization" means that part of a
5 charitable organization or sponsor which coordinates,
6 supervises, or exercises control over policy, fundraising, and
7 expenditures or assists or advises one or more of the
8 organization's chapters, branches, or affiliates in this
9 state.

10 Section 4. Paragraph (a) of subsection (4) of section
11 496.405, Florida Statutes, is amended to read:

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

14 (4)(a) Every charitable organization, sponsor, or
15 parent organization filing on behalf of one or more chapters,
16 branches, or affiliates that is required to register under
17 this section must pay a single registration fee. A parent
18 organization filing on behalf of one or more chapters,
19 branches, or affiliates shall total all contributions received
20 by the chapters, branches, or affiliates included in the
21 registration statement to determine registration fees. Fees
22 shall be assessed as follows:

23 1.a. Ten dollars, if the contributions received for
24 the last fiscal or calendar year were less than \$5,000; or

25 b. Ten dollars, if the contributions actually raised
26 or received from the public during the immediately preceding
27 fiscal year by such organization or sponsor are no more than
28 \$25,000 and the fundraising activities of such organization or
29 sponsor are carried on by volunteers, members, officers, or
30 permanent employees, who are not compensated, primarily to
31 solicit such contributions, provided no part of the assets or

1 income of such organization or sponsor inures to the benefit
2 of or is paid to any officer or member of such organization or
3 sponsor or to any professional fundraising consultant,
4 professional solicitor, or commercial co-venturer;

5 2. Seventy-five dollars, if the contributions received
6 for the last fiscal year were \$5,000 or more, but less than
7 \$100,000;

8 3. One hundred twenty-five dollars, if the
9 contributions received for the last fiscal year were \$100,000
10 or more, but less than \$200,000;

11 4. Two hundred dollars, if the contributions received
12 for the last fiscal year were \$200,000 or more, but less than
13 \$500,000;

14 5. Three hundred dollars, if the contributions
15 received for the last fiscal year were \$500,000 or more, but
16 less than \$1 million;

17 6. Three hundred fifty dollars, if the contributions
18 received for the last fiscal year were \$1 million or more, but
19 less than \$10 million;

20 7. Four hundred dollars, if the contributions received
21 for the last fiscal year were \$10 million or more.

22 Section 5. Section 496.406, Florida Statutes, is
23 amended to read:

24 496.406 Procedures for claiming an exemption from
25 registration.--

26 ~~(1)(a)~~ The following charitable organizations and
27 sponsors are exempt from the requirements of s. 496.405:

28 (1)~~1~~. A person who is soliciting for a named
29 individual, provided that all the contributions collected
30 without any deductions whatsoever are turned over to the
31

1 beneficiary for her or his use and provided that the person
2 has complied with the requirements of s. 496.413.

3 (2)~~2~~. A charitable organization or sponsor which
4 limits solicitation of contributions to the membership of the
5 charitable organization or sponsor. For the purposes of this
6 paragraph, the term "membership" does not include those
7 persons who are granted a membership upon making a
8 contribution as a result of a solicitation.

9 ~~(b) The following charitable organizations and~~
10 ~~sponsors must follow the procedures in subsection (2) in order~~
11 ~~to be exempt from the requirements of s. 496.405: charitable~~
12 ~~organizations or sponsors whose fundraising activities are~~
13 ~~carried on by volunteers, members, officers, or permanent~~
14 ~~employees who are not compensated primarily to solicit~~
15 ~~contributions and which do not actually raise or receive~~
16 ~~contributions from the public in excess of \$25,000 during the~~
17 ~~immediately preceding fiscal year, if no part of their assets~~
18 ~~or income inures to the benefit of or are paid to any officer~~
19 ~~or member, professional fundraising consultant, professional~~
20 ~~solicitor, or commercial co-venturer. Charitable organizations~~
21 ~~or sponsors which do not intend to solicit and receive~~
22 ~~contributions in excess of \$25,000, but do receive~~
23 ~~contributions in excess of that amount, shall file an initial~~
24 ~~registration statement or annual renewal statement with the~~
25 ~~department pursuant to s. 496.405 within 30 days after~~
26 ~~contributions are received in excess of that amount.~~

27 ~~(2) Any charitable organization or sponsor claiming to~~
28 ~~be exempt under paragraph (1)(b) must submit annually to the~~
29 ~~department, on forms to be prescribed by the department,~~
30 ~~accompanied by a \$10 fee, a sworn statement setting forth the~~
31 ~~name and address of the organization and its principal~~

1 ~~executive personnel, the purpose of the organization, and the~~
2 ~~factual basis for the exemption. In addition, a charitable~~
3 ~~organization or sponsor claiming to be exempt under paragraph~~
4 ~~(1)(b) must include a copy of any financial statement, report,~~
5 ~~or return filed with the Internal Revenue Service. The~~
6 ~~department must issue annually a letter of exemption to those~~
7 ~~organizations or sponsors exempt under paragraph (1)(b).~~

8 Section 6. Paragraph (a) of subsection (3) of section
9 501.143, Florida Statutes, is amended to read:

10 501.143 Dance Studio Act.--

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

12 (a) Each owner or operator of a ballroom dance studio
13 shall annually register with the department ~~no later than~~
14 ~~October 1~~, providing its legal business or trade name, mailing
15 address, and business locations, and the full names,
16 addresses, and telephone numbers of its owners or corporate
17 officers and directors and the Florida agent of the
18 corporation. A copy of all contracts offered to the public
19 shall also be submitted to the department. A certificate
20 evidencing proof of registration shall be issued by the
21 department. This certificate must be prominently displayed at
22 the sales or front desk at each business location of a
23 ballroom dance studio defined in subparagraph (2)(a)1.
24 Ballroom dance studios defined in subparagraph (2)(a)2. must
25 possess the certificate when providing dance studio lessons or
26 services.

27 Section 7. Paragraph (d) of subsection (1) of section
28 501.607, Florida Statutes, is amended to read:

29 501.607 Licensure of salespersons.--

30 (1) An applicant for a license as a salesperson must
31 submit to the department, in such form as it prescribes, a

1 written application for a license. The application must set
2 forth the following information:

3 (d) Whether the applicant, regardless of adjudication
4 ~~conviction~~, has previously been arrested for, convicted or
5 found guilty of, has entered a plea of guilty or a plea of
6 nolo contendere to, or is under indictment or information for,
7 a felony and, if so, the nature of the felony.

8 Section 8. Subsection (1) of section 501.2101, Florida
9 Statutes, is amended to read:

10 501.2101 Enforcing authorities; moneys received in
11 certain proceedings; Consumer Frauds Trust Fund.--

12 (1) Any moneys received by an enforcing authority for
13 attorney's fees and costs of investigation or litigation in
14 proceedings brought under the provisions of s. 501.207, s.
15 501.208, or s. 501.211 shall be deposited as received in the
16 Consumer Frauds Trust Fund or the Legal Affairs Revolving
17 Trust Fund in the State Treasury.

18 Section 9. Subsection (2) of section 559.805, Florida
19 Statutes, is amended to read:

20 559.805 Filings with the department; disclosure of
21 advertisement identification number.--

22 (2) Upon the filing of the disclosure statement and
23 the posting of a bond or the establishment of a trust account
24 or a guaranteed letter of credit, if any is required, the
25 department shall issue to the business opportunity seller an
26 advertisement identification number. The business opportunity
27 seller shall include and prominently display the advertisement
28 identification number in all written advertisements, sales
29 materials, promotional documents, and business opportunity
30 contracts.

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1 Section 10. Subsection (8) of section 559.904, Florida
2 Statutes, is amended to read:

3 559.904 Motor vehicle repair shop registration;
4 application; exemption.--

5 (8) Each registration must be renewed annually on or
6 before the expiration date of the current registration. A late
7 fee of \$25 shall be paid, in addition to the registration fee
8 or any other penalty, for any registration renewal application
9 that is received by the department after the expiration date
10 of the current registration. The department may not issue the
11 registration until all fees are paid.

12 Section 11. Subsection (5) of section 817.415, Florida
13 Statutes, is amended to read:

14 817.415 Florida Free Gift Advertising Law.--

15 (5) ~~TYPE~~ REQUIREMENTS FOR IN
16 ADVERTISEMENTS.--Advertising in which items are offered as
17 free with conditions or obligations necessary to acceptance
18 shall include a clear and conspicuous statement of any such
19 conditions or obligations ~~with equal prominence and type size~~
20 ~~at least half that of the term "free,"~~ and advertising in
21 compliance herewith shall not be considered deceptive.

22 Section 12. This act shall take effect October 1,
23 1998.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1620

Removes from bill section that would have transferred to Department of Banking and Finance responsibility to act as registry for receiving and maintaining records of inquiries, correspondence, and complaints from consumers concerning persons who collect debts, including consumer collection agencies.

Exempts persons or organizations who solicit solely on the behalf of religious institutions, educational institutions, and state agencies or other governmental entities from the Solicitation of Contributions Act.

Authorizes the deposit of moneys received by an enforcing authority for attorney's fees and costs of investigation or litigation in proceedings brought under ss. 501.207, 501.208, and 501.211, F.S., to be deposited in the Legal Affairs Revolving Trust Fund.