

By the Committee on Business Regulation & Consumer Affairs
and Representatives Ogles and Lynn

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. 496.404,
7 F.S.; clarifying a definition; amending s.
8 496.405, F.S.; revising a registration fee
9 schedule for charitable organizations; amending
10 s. 496.406, F.S.; deleting certain registration
11 requirements for certain charitable
12 organizations; amending s. 501.143, F.S.;
13 deleting a specific annual registration date
14 for certain dance studios; amending s. 501.607,
15 F.S.; clarifying certain procedures for
16 licensing salespersons; amending s. 559.725,
17 F.S.; clarifying procedures for administering
18 consumer complaints; amending s. 559.805, F.S.;
19 requiring business opportunity sellers to
20 disclose certain information; amending s.
21 559.904, F.S.; clarifying registration
22 requirements for motor vehicle repair shop
23 operators; providing a late fee; amending s.
24 817.415, F.S.; revising requirements for free
25 advertising; providing an effective date.

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

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

31 213.053 Confidentiality and information sharing.--

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

3 (o) Names, addresses, and sales tax registration
4 information to the Division of Consumer Services of the
5 Department of Agriculture and Consumers Services in the
6 conduct of its official duties.

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8 Disclosure of information under this subsection shall be
9 pursuant to a written agreement between the executive director
10 and the agency. Such agencies, governmental or
11 nongovernmental, shall be bound by the same requirements of
12 confidentiality as the Department of Revenue. Breach of
13 confidentiality is a misdemeanor of the first degree,
14 punishable as provided by s. 775.082 or s. 775.083.

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

17 496.404 Definitions.--As used in ss. 496.401-496.424:

18 (16) "Parent organization" means that part of a
19 charitable organization or sponsor which coordinates,
20 supervises, or exercises control over policy, fundraising, and
21 expenditures or assists or advises one or more of the
22 organization's chapters, branches, or affiliates in this
23 state.

24 Section 3. Paragraph (a) of subsection (4) of section
25 496.405, Florida Statutes, is amended to read:

26 496.405 Registration statements by charitable
27 organizations and sponsors.--

28 (4)(a) Every charitable organization, sponsor, or
29 parent organization filing on behalf of one or more chapters,
30 branches, or affiliates that is required to register under
31 this section must pay a single registration fee. A parent

1 organization filing on behalf of one or more chapters,
2 branches, or affiliates shall total all contributions received
3 by the chapters, branches, or affiliates included in the
4 registration statement to determine registration fees. Fees
5 shall be assessed as follows:

6 1.a. Ten dollars, if the contributions received for
7 the last fiscal or calendar year were less than \$5,000; or
8 b. Ten dollars, if the contributions actually raised
9 or received from the public during the immediately preceding
10 fiscal year by such organization or sponsor are no more than
11 \$25,000 and the fundraising activities of such organization or
12 sponsor are carried on by volunteers, members, officers, or
13 permanent employees, who are not compensated, primarily to
14 solicit such contributions, provided no part of the assets or
15 income of such organization or sponsor inures to the benefit
16 of or is paid to any officer or member of such organization or
17 sponsor or to any professional fundraising consultant,
18 professional solicitor, or commercial co-venturer;

19 2. Seventy-five dollars, if the contributions received
20 for the last fiscal year were \$5,000 or more, but less than
21 \$100,000;

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

25 4. Two hundred dollars, if the contributions received
26 for the last fiscal year were \$200,000 or more, but less than
27 \$500,000;

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

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

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

6 Section 4. Section 496.406, Florida Statutes, is
7 amended to read:

8 496.406 Procedures for claiming an exemption from
9 registration.--

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

12 (1)~~1~~. A person who is soliciting for a named
13 individual, provided that all the contributions collected
14 without any deductions whatsoever are turned over to the
15 beneficiary for her or his use and provided that the person
16 has complied with the requirements of s. 496.413.

17 (2)~~2~~. A charitable organization or sponsor which
18 limits solicitation of contributions to the membership of the
19 charitable organization or sponsor. For the purposes of this
20 paragraph, the term "membership" does not include those
21 persons who are granted a membership upon making a
22 contribution as a result of a solicitation.

23 ~~(b) The following charitable organizations and~~
24 ~~sponsors must follow the procedures in subsection (2) in order~~
25 ~~to be exempt from the requirements of s. 496.405: charitable~~
26 ~~organizations or sponsors whose fundraising activities are~~
27 ~~carried on by volunteers, members, officers, or permanent~~
28 ~~employees who are not compensated primarily to solicit~~
29 ~~contributions and which do not actually raise or receive~~
30 ~~contributions from the public in excess of \$25,000 during the~~
31 ~~immediately preceding fiscal year, if no part of their assets~~

1 ~~or income inures to the benefit of or are paid to any officer~~
2 ~~or member, professional fundraising consultant, professional~~
3 ~~solicitor, or commercial co-venturer. Charitable organizations~~
4 ~~or sponsors which do not intend to solicit and receive~~
5 ~~contributions in excess of \$25,000, but do receive~~
6 ~~contributions in excess of that amount, shall file an initial~~
7 ~~registration statement or annual renewal statement with the~~
8 ~~department pursuant to s. 496.405 within 30 days after~~
9 ~~contributions are received in excess of that amount.~~

10 ~~(2) Any charitable organization or sponsor claiming to~~
11 ~~be exempt under paragraph (1)(b) must submit annually to the~~
12 ~~department, on forms to be prescribed by the department,~~
13 ~~accompanied by a \$10 fee, a sworn statement setting forth the~~
14 ~~name and address of the organization and its principal~~
15 ~~executive personnel, the purpose of the organization, and the~~
16 ~~factual basis for the exemption. In addition, a charitable~~
17 ~~organization or sponsor claiming to be exempt under paragraph~~
18 ~~(1)(b) must include a copy of any financial statement, report,~~
19 ~~or return filed with the Internal Revenue Service. The~~
20 ~~department must issue annually a letter of exemption to those~~
21 ~~organizations or sponsors exempt under paragraph (1)(b).~~

22 Section 5. Paragraph (a) of subsection (3) of section
23 501.143, Florida Statutes, is amended to read:

24 501.143 Dance Studio Act.--

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

26 (a) Each owner or operator of a ballroom dance studio
27 shall annually register with the department ~~no later than~~
28 ~~October 1~~, providing its legal business or trade name, mailing
29 address, and business locations, and the full names,
30 addresses, and telephone numbers of its owners or corporate
31 officers and directors and the Florida agent of the

1 corporation. A copy of all contracts offered to the public
2 shall also be submitted to the department. A certificate
3 evidencing proof of registration shall be issued by the
4 department. This certificate must be prominently displayed at
5 the sales or front desk at each business location of a
6 ballroom dance studio defined in subparagraph (2)(a)1.
7 Ballroom dance studios defined in subparagraph (2)(a)2. must
8 possess the certificate when providing dance studio lessons or
9 services.

10 Section 6. Paragraph (d) of subsection (1) of section
11 501.607, Florida Statutes, is amended to read:

12 501.607 Licensure of salespersons.--

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

17 (d) Whether the applicant, regardless of adjudication
18 ~~conviction~~, has previously been arrested for, convicted or
19 found guilty of, has entered a plea of guilty or a plea of
20 nolo contendere to, or is under indictment or information for,
21 a felony and, if so, the nature of the felony.

22 Section 7. Subsections (1), (2), (3), and (4) of
23 section 559.725, Florida Statutes, are amended to read:

24 559.725 Consumer complaints; administrative duties.--

25 (1) The department ~~Division of Consumer Services~~ shall
26 serve as the registry for receiving and maintaining records of
27 inquiries, correspondence, and complaints from consumers
28 concerning any and all persons who collect debts, including
29 consumer collection agencies.

30 (2) The department ~~division~~ shall classify complaints
31 by type and identify the number of written complaints against

1 persons collecting or attempting to collect debts in this
2 state, including credit grantors collecting their own debts,
3 debt collectors generally, and, specifically, consumer
4 collection agencies as distinguished from other persons who
5 collect debts such as commercial debt collection agencies
6 regulated under part V of this chapter. The department
7 ~~division~~ shall identify the nature and number of various kinds
8 of written complaints, including specifically those alleging
9 violations of s. 559.72.

10 (3) The department ~~division~~ shall inform and furnish
11 relevant information to the appropriate regulatory body of the
12 state, or The Florida Bar in the case of attorneys, when any
13 consumer debt collector exempt from registration under this
14 part has been named in five or more written consumer
15 complaints alleging violations of s. 559.72 within a 12-month
16 period.

17 (4) The department ~~division~~ shall furnish a form to
18 each complainant whose complaint concerns an alleged violation
19 of s. 559.72 by a consumer collection agency. Such form may
20 be filed with the department ~~of Banking and Finance~~. The form
21 shall identify the accused consumer collection agency and
22 provide for the complainant's summary of the nature of the
23 alleged violation and facts which allegedly support the
24 complaint. The form shall include a provision for the
25 complainant to state under oath before a notary public that
26 the allegations therein made are true.

27 Section 8. Subsection (2) of section 559.805, Florida
28 Statutes, is amended to read:

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

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1 (2) Upon the filing of the disclosure statement and
2 the posting of a bond or the establishment of a trust account
3 or a guaranteed letter of credit, if any is required, the
4 department shall issue to the business opportunity seller an
5 advertisement identification number. The business opportunity
6 seller shall include and prominently display the advertisement
7 identification number in all written advertisements, sales
8 materials, promotional documents, and business opportunity
9 contracts.

10 Section 9. Subsection (8) of section 559.904, Florida
11 Statutes, is amended to read:

12 559.904 Motor vehicle repair shop registration;
13 application; exemption.--

14 (8) Each registration must be renewed annually on or
15 before the expiration date of the current registration. A late
16 fee of \$25 shall be paid, in addition to the registration fee
17 or any other penalty, for any registration renewal application
18 that is received by the department after the expiration date
19 of the current registration. The department may not issue the
20 registration until all fees are paid.

21 Section 10. Subsection (5) of section 817.415, Florida
22 Statutes, is amended to read:

23 817.415 Florida Free Gift Advertising Law.--

24 (5) ~~TYPE~~ REQUIREMENTS FOR IN
25 ADVERTISEMENTS.--Advertising in which items are offered as
26 free with conditions or obligations necessary to acceptance
27 shall include a clear and unambiguous statement of any such
28 conditions or obligations ~~with equal prominence and type size~~
29 ~~at least half that of the term "free,"~~ and advertising in
30 compliance herewith shall not be considered deceptive.
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