

By the Committee on Rules & Calendar and Representative
Arnall

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes;
3 amending ss. 469.005, 473.302, 473.323, 483.23,
4 484.0445, 484.053, 487.011, 487.012, 487.021,
5 487.025, 487.031, 487.041, 487.0435, 487.045,
6 487.046, 487.047, 487.048, 487.049, 487.051,
7 487.0615, 487.071, 487.081, 487.091, 487.101,
8 487.111, 487.13, 487.156, 487.159, 487.161,
9 487.163, 487.171, 487.175, 489.103, 489.1136,
10 489.131, 489.133, 489.140, 489.141, 489.531,
11 494.0038, 497.255, 497.353, 501.022, 501.0575,
12 501.608, 509.032, 509.302, 514.031, 517.021,
13 517.12, 539.001, 548.004, 550.1625, 550.2625,
14 550.375, 553.06, 553.141, 553.503, 553.506,
15 553.512, 553.73, 553.74, 559.807, 560.129,
16 561.1105, 561.20, 570.1912, 570.235, 578.28,
17 585.74, 585.91, 589.101, 590.02, 593.111,
18 601.04, 601.155, 616.242, 626.8414, 627.651,
19 631.0515, and 631.911, F.S.; and reenacting ss.
20 483.811(6), 559.803, and 567.07, F.S., pursuant
21 to s. 11.242, F.S.; deleting provisions which
22 have expired, have become obsolete, have had
23 their effect, have served their purpose, or
24 have been impliedly repealed or superseded;
25 replacing incorrect cross-references and
26 citations; correcting grammatical,
27 typographical, and like errors; removing
28 inconsistencies, redundancies, and unnecessary
29 repetition in the statutes; improving the
30 clarity of the statutes and facilitating their
31 correct interpretation; and confirming the

1 restoration of provisions unintentionally
2 omitted from republication in the acts of the
3 Legislature during the amendatory process.
4

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

7 Section 1. Subsection (3) of section 469.005, Florida
8 Statutes, is amended to read:

9 469.005 License requirements.--All applicants for
10 licensure as either asbestos consultants or asbestos
11 contractors shall:

12 (3) When applying for licensure as an ~~as~~ asbestos
13 contractor, successfully complete the following
14 department-approved courses:

15 (a) An asbestos contractor/supervisor course. Such
16 course shall consist of not less than 5 days of instruction.

17 (b) A respiratory protection course. Such course shall
18 consist of not less than 3 days of instruction.
19

20 Reviser's note.--Amended to improve clarity and
21 facilitate correct interpretation.
22

23 Section 2. Paragraph (a) of subsection (7) of section
24 473.302, Florida Statutes, is amended to read:

25 473.302 Definitions.--As used in this chapter, the
26 term:

27 (7) "Practice of," "practicing public accountancy," or
28 "public accounting" means:

29 (a) Offering to perform or performing for the public
30 one or more types of services involving the expression of an
31 opinion on financial statements, the attestation as an expert

1 in accountancy to the reliability or fairness of presentation
2 of financial information, the utilization of any form of
3 opinion or financial statements that provide a level of
4 assurance, the utilization of any form of disclaimer of
5 opinion which conveys an assurance of reliability as to
6 matters not specifically disclaimed, or the expression of an
7 opinion on the reliability of an assertion by one party for
8 the use by a third party;

9
10 However, these terms shall not include services provided by
11 the American Institute of Certified Public Accountants or the
12 Florida Institute of Certified Public Accountants, or any full
13 service association of certified public accounting firms whose
14 plans of administration have been approved by the board, to
15 their members or services performed by these entities in
16 reviewing the services provided to the public by members of
17 these entities.

18
19 Reviser's note.--Amended to improve clarity and
20 facilitate correct interpretation.

21
22 Section 3. Paragraph (a) of subsection (1) of section
23 473.323, Florida Statutes, is amended to read:

24 473.323 Disciplinary proceedings.--

25 (1) The following acts constitute grounds for which
26 the disciplinary actions in subsection (3) may be taken:

27 (a) Violation of any provision of s. 455.227(1), ~~s.~~
28 ~~473.317~~, or any other provision of this chapter.

29
30
31

1 Reviser's note.--Amended to conform to the
2 repeal of s. 473.317 by s. 10, ch. 95-140, Laws
3 of Florida.

4
5 Section 4. Paragraph (a) of subsection (1) and
6 subsection (2) of section 483.23, Florida Statutes, are
7 amended to read:

8 483.23 Offenses; criminal penalties.--

9 (1)(a) It is unlawful for any person to:

10 1. Operate, maintain, direct, or engage in the
11 business of operating a clinical laboratory unless she or he
12 has obtained a clinical laboratory license from the agency or
13 is exempt under s. 483.031.

14 2. Conduct, maintain, or operate a clinical
15 laboratory, other than an exempt laboratory or a laboratory
16 operated under s. 483.035, unless the clinical laboratory is
17 under the direct and responsible supervision and direction of
18 a person licensed under part III ~~IV~~ of this chapter.

19 3. Allow any person other than an individual licensed
20 under part III ~~IV~~ of this chapter to perform clinical
21 laboratory procedures, except in the operation of a laboratory
22 exempt under s. 483.031 or a laboratory operated under s.
23 483.035.

24 4. Violate or aid and abet in the violation of any
25 provision of this part or the rules adopted under this part.

26 (2) Any use or attempted use of a forged license under
27 this part or part III ~~IV~~ of this chapter constitutes the crime
28 of forgery.

29

30 Reviser's note.--Amended to conform to the
31 redesignation of part IV of chapter 483 as part

1 III necessitated by the repeal of sections
2 constituting former part III by s. 1, ch.
3 96-108, Laws of Florida.

4
5 Section 5. Subsection (6) of section 483.811, Florida
6 Statutes, is reenacted to read:

7 483.811 Approval of laboratory personnel training
8 programs.--

9 (6) If the board finds that an approved program no
10 longer meets the required standards, the department may
11 rescind the approval.

12
13 Reviser's note.--Section 22, ch. 93-178, Laws
14 of Florida, purported to amend s. 483.811(4)
15 and redesignated it as subsection (6), but
16 failed to republish the phrase "may rescind the
17 approval" at the end of the subsection. In the
18 absence of affirmative evidence that the
19 Legislature intended to repeal the phrase,
20 subsection (6) is reenacted to confirm that the
21 omission was not intended.

22
23 Section 6. Subsection (1) of section 484.0445, Florida
24 Statutes, is amended to read:

25 484.0445 Training program.--

26 (1) The board shall establish by rule a training
27 program not to exceed 6 months in length, which may include a
28 board-approved home study course. Upon submitting to the
29 department the registration fee, the applicant may register
30 and enter the training program. Upon completion of the
31 training program, the trainee shall take the first available

1 written and practical examinations offered by the department.
2 The department shall administer the written and practical
3 examinations as prescribed by board rule. If the trainee
4 fails either the written or the practical examination, she or
5 he may repeat the training program one time and retake the
6 failed examination, provided she or he takes the next
7 available examination. No person may remain in trainee status
8 or further perform any services authorized for a trainee if
9 she or he fails either the written or the practical
10 examination twice; but, a trainee may continue to function as
11 a trainee until she or he has received the results of the
12 examinations. Any applicant who has failed an examination
13 twice and is no longer functioning as a trainee shall be
14 eligible for reexamination as provided in s. 484.045(2)
15 ~~484.045(2) and (3)~~.

16
17 Reviser's note.--Amended to conform to the
18 repeal of s. 484.045(3) by s. 58, ch. 99-5,
19 Laws of Florida.

20
21 Section 7. Subsection (2) of section 484.053, Florida
22 Statutes, is amended to read:

23 484.053 Prohibitions; penalties.--
24 (2) Any person who violates any of the provisions of
25 this section is guilty of a felony of the third degree,
26 punishable as provided in s. 775.082 or s. 775.083.

27
28 Reviser's note.--Amended to improve clarity and
29 facilitate correct interpretation.

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31

1 Section 8. Section 487.011, Florida Statutes, is
2 amended to read:

3 487.011 Short title; administration.--This chapter
4 ~~part~~ may be cited as the "Florida Pesticide Law" and shall be
5 administered by the Department of Agriculture and Consumer
6 Services.

7
8 Reviser's note.--Amended to improve clarity and
9 facilitate correct interpretation. Chapter 487
10 was formerly divided into two parts. Sections
11 comprising former part II of the chapter were
12 repealed by s. 21, ch. 99-4, Laws of Florida.

13
14 Section 9. Section 487.012, Florida Statutes, is
15 amended to read:

16 487.012 Declaration of purpose.--The purpose of this
17 chapter ~~part~~ is to regulate the distribution, sale, and use of
18 pesticides, except as provided in chapters 388 and 482, and to
19 protect people and the environment from the adverse effects of
20 pesticides.

21
22 Reviser's note.--Amended to improve clarity and
23 facilitate correct interpretation. Chapter 487
24 was formerly divided into two parts. Sections
25 comprising former part II of the chapter were
26 repealed by s. 21, ch. 99-4, Laws of Florida.

27
28 Section 10. Section 487.021, Florida Statutes, is
29 amended to read:

30 487.021 Definitions.--For the purpose of this chapter
31 ~~part~~:

1 (1) "Acceptable release rate" means a measured release
2 rate not exceeding 4.0 micrograms per square centimeter per
3 day at steady state conditions as determined in accordance
4 with a United States Environmental Protection Agency testing
5 data call-in notice of July 29, 1986, on tributyltin in
6 antifouling paints under the Federal Insecticide, Fungicide,
7 and Rodenticide Act, 7 U.S.C. s. 136, or at a rate established
8 by the department.

9 (2) "Active ingredient" means:

10 (a) In the case of a pesticide other than a plant
11 regulator, defoliant, or desiccant, an ingredient which will
12 prevent, destroy, repel, or mitigate insects, nematodes,
13 fungi, rodents, weeds, or other pests.

14 (b) In the case of a plant regulator, an ingredient
15 which, through physiological action, will accelerate or retard
16 the rate of growth or rate of maturation, or otherwise alter
17 the behavior, of ornamental or crop plants or the produce
18 thereof.

19 (c) In the case of a defoliant, an ingredient which
20 will cause the leaves or foliage to drop from a plant.

21 (d) In the case of a desiccant, an ingredient which
22 will artificially accelerate the drying of plant tissue.

23 (3) "Added ingredient" means any plant nutrient or
24 plant regulator added to the mixture which is not an active
25 pesticidal ingredient, but which the manufacturer wishes to
26 show on the label.

27 (4) "Adulterated" applies to any pesticide if its
28 strength or purity falls below or is in excess of the
29 professed standard of quality as expressed on labeling or
30 under which it is sold, if any substance has been substituted
31 wholly or in part for the pesticide or if any valuable

1 constituent of the pesticide has been wholly or in part
2 abstracted.

3 (5) "Advertisement" means all representations
4 disseminated in any manner or by any means other than by
5 labeling, for the purpose of inducing, or which are likely to
6 induce, directly or indirectly, the purchase of pesticides.

7 (6) "Age of majority" means any natural person 18
8 years of age or older, or an emancipated minor.

9 (7) "Aircraft" means any machine designed for flight
10 and for use in applying pesticides.

11 (8) "Animal" means all vertebrate and invertebrate
12 species, including, but not limited to, humans and other
13 mammals, birds, fish, and shellfish.

14 (9) "Antidote" means the most practical immediate
15 treatment for poisoning and includes first aid treatment.

16 (10) "Antifouling paint" means a coating, paint, or
17 treatment that is intended for use as a pesticide, as defined
18 in this section, to control freshwater or marine fouling
19 organisms.

20 (11) "Antisiphon device" means a safety device used to
21 prevent the backflow of a mixture of water and chemicals into
22 the water supply.

23 (12) "Batch" or "lot" means a quantity of pesticide
24 produced or packaged and readily identified by numbers,
25 letters, or other symbols.

26 (13) "Brand" means the name, number, trademark, or any
27 other designation which distinguishes one pesticide product
28 from another.

29 (14) "Certification" means the recognition by the
30 department that an individual is a competent pesticide
31

1 applicator and, thus, is eligible for licensure in one or more
2 of the designated license types and categories.

3 (15) "Certified applicator" means any individual who
4 has been recognized by the department as a competent pesticide
5 applicator and, thus, is eligible to apply for licensure in
6 one or more of the designated license types and categories.

7 (16) "Commercial applicator" means an individual who
8 has reached the age of majority and is licensed by the
9 department to use or supervise the use of any restricted-use
10 pesticide for any purpose on any property other than as
11 provided by the definitions of "private applicator," "product
12 specific applicator," or "public applicator," whether or not
13 the individual is a private applicator with respect to some
14 uses.

15 (17) "Dealer" means any person, other than the
16 manufacturer or distributor, who offers for sale, sells,
17 barter, or otherwise supplies pesticides to the ultimate user
18 or consumer.

19 (18) "Deficiency" means the amount of an active
20 ingredient of a pesticide by which it fails to come up to its
21 guaranteed analysis when analyzed.

22 (19) "Defoliant" means any substance or mixture of
23 substances intended for causing the leaves or foliage to drop
24 from a plant, with or without causing abscission.

25 (20) "Department" means the Department of Agriculture
26 and Consumer Services or its authorized representative.

27 (21) "Desiccant" means any substance or mixture of
28 substances intended for artificially accelerating the drying
29 of plant tissues.

30 (22) "Device" means any instrument or contrivance
31 (other than a firearm) which is intended for trapping,

1 destroying, repelling, or mitigating, any pest or other form
2 of plant or animal life (other than human and other than
3 bacteria, virus, or other microorganism on or in living humans
4 or other living animals); but not including equipment used for
5 the application of pesticides when sold separately.

6 (23) "Distribute" means to offer for sale, hold for
7 sale, sell, barter, or supply pesticides in this state.

8 (24) "Distributor" means any person who offers for
9 sale, holds for sale, sells, barter, or supplies pesticides
10 in this state.

11 (25) "Emergency exemption" means an exemption as
12 authorized in s. 18 of the Federal Insecticide, Fungicide, and
13 Rodenticide Act.

14 (26) "Environment" means all water, air, land, plants,
15 and animals, and their relationships with one another.

16 (27) "Equipment" means any type of ground, aquatic, or
17 aerial device used to apply any pesticide on land, and on
18 anything that may be growing, habituating, or stored on or in
19 the land. Equipment does not include any pressurized
20 hand-size household device used to apply any pesticide, or any
21 other device where the person applying the pesticide is the
22 source of power for applying the pesticide.

23 (28) "Excess" means the amount of an active ingredient
24 of a pesticide found by analysis to be over the guaranteed
25 amount.

26 (29) "Experimental use permit" means a permit issued
27 by the department or by the United States Environmental
28 Protection Agency as authorized in s. 5 of the Federal
29 Insecticide, Fungicide, and Rodenticide Act.

30 (30) "Fungi" means all non-chlorophyll-bearing
31 thallophytes (that is, all non-chlorophyll-bearing plants of a

1 lower order than mosses and liverworts), as, for example,
2 rusts, smuts, mildews, molds, yeasts, and bacteria, except
3 those on or in living humans or other animals.
4 (31) "Highly toxic" means any highly poisonous
5 pesticide as determined by the rules promulgated pursuant to
6 this chapter ~~part~~.
7 (32) "Imminent hazard" means a situation which exists
8 when the continued use of a pesticide during the time required
9 for cancellation proceedings would be likely to result in
10 unreasonable adverse effects on the environment or will
11 involve unreasonable hazard to the survival of a species
12 declared endangered.
13 (33) "Ineffective" means that pesticides such as
14 bacteriostats, disinfectants, germicides, sanitizers, and like
15 products fail to meet microbiological claims when tested in
16 the laboratory utilizing the officially approved procedures of
17 the Association of Official Analytical Chemists or other
18 methods or procedures as the department may find necessary.
19 (34) "Inert ingredient" means an ingredient which is
20 not an active ingredient.
21 (35) "Ingredient statement" means a statement of the
22 name and percentage by weight of each active ingredient,
23 together with the total percentage of the inert ingredients in
24 the pesticides.
25 (36) "Insect" means any of the numerous small
26 invertebrate animals generally having the body more or less
27 obviously segmented, for the most part belonging to the class
28 Insecta, comprising six legs, usually in winged form (as, for
29 example, beetles, bugs, bees, and flies) and to other allied
30 classes and arthropods whose members are wingless and usually
31

1 have more than six legs (as, for example, spiders, mites,
2 ticks, centipedes, and wood lice).
3 (37) "Irrigation system" means any device or
4 combination of devices having a hose, pipe, or other conduit
5 which connects directly to any source of ground or surface
6 water, through which device or combination of devices water or
7 a mixture of water and chemicals is drawn and applied for
8 agricultural purposes. The term does not include any handheld
9 hose sprayer or other similar device which is constructed so
10 that an interruption in water flow automatically prevents any
11 backflow to the water source.

12 (38) "Label" means the written, printed, or graphic
13 matter on or attached to a pesticide, device, or immediate and
14 outside container or wrappers of such pesticide or device.

15 (39) "Labeling" means all labels and other written,
16 printed, or graphic matter referencing the pesticide or device
17 or upon any of its containers or wrappers, or accompanying the
18 pesticide or device at any time, but does not include
19 accurate, nonmisleading reference to current official
20 publications of the United States Departments of Agriculture
21 or Interior, the Environmental Protection Agency, the United
22 States Public Health Service, state experiment stations, state
23 agricultural colleges, or other similar federal institutions
24 or official agencies of this state or other states authorized
25 by law to conduct research in the field of pesticides.

26 (40) "Land" means all land and water areas, including
27 airspace.

28 (41) "Licensed applicator" means an individual who has
29 reached the age of majority and is authorized by license from
30 the department to use or supervise the use of any
31 restricted-use pesticide covered by the license.

- 1 (42) "Manufacturer" means a person engaged in the
2 business of importing, producing, preparing, mixing,
3 formulating, or reformulating pesticides for the purpose of
4 distribution.
- 5 (43) "Mixer-loader" means any individual who handles
6 open containers or otherwise prepares, processes, or dilutes
7 pesticides in preparation for final application.
- 8 (44) "Nematode" means invertebrate animals of the
9 phylum Nemathelminthes and class Nematoda (that is,
10 unsegmented round worms with elongated, fusiform, or saclike
11 bodies covered with cuticle and inhabiting soil, water,
12 plants, or plant parts), and may also be known as nemas or
13 eelworms.
- 14 (45) "Official sample" means any sample of a pesticide
15 taken by the department in accordance with the provisions of
16 this chapter part or rules adopted under this chapter part,
17 and designated as official by the department.
- 18 (46) "Organotin compound" means any compound of tin
19 used as a biocide in an antifouling paint.
- 20 (47) "Percent" means one one-hundredth part by weight
21 or volume.
- 22 (48) "Pest" means:
- 23 (a) Any insect, rodent, nematode, fungus, weed; or
24 (b) Any other form of terrestrial or aquatic plant or
25 animal life or virus, bacteria, or other microorganism, except
26 viruses, bacteria, or other microorganisms on or in living
27 humans or other living animals, which is declared to be a pest
28 by the administrator of the United States Environmental
29 Protection Agency or which may be declared to be a pest by the
30 department by rule.
31

- 1 (49) "Pesticide" means any substance or mixture of
2 substances intended for preventing, destroying, repelling, or
3 mitigating any insects, rodents, nematodes, fungi, weeds, or
4 other forms of plant or animal life or viruses, except
5 viruses, bacteria, or fungi on or in living humans or other
6 animals, which the department by rule declares to be a pest,
7 and any substance or mixture of substances intended for use as
8 a plant regulator, defoliant, or desiccant; however, the term
9 "pesticide" does not include any article that:
- 10 (a) Is a "new animal drug" within the meaning of s.
11 201(w) of the Federal Food, Drug, and Cosmetic Act;
- 12 (b) Has been determined by the Secretary of the United
13 States Department of Health and Human Services not to be a new
14 animal drug by a regulation establishing conditions of use for
15 the article; or
- 16 (c) Is an animal feed within the meaning of s. 201(x)
17 of the Federal Food, Drug, and Cosmetic Act bearing or
18 containing an article covered in this subsection.
- 19 (50) "Plant nutrient" means any ingredient that
20 furnishes nourishment to the plant or promotes its growth in a
21 normal manner.
- 22 (51) "Plant regulator" means any substance or mixture
23 of substances intended, through physiological action, for
24 accelerating or retarding the rate of growth or maturation, or
25 for otherwise altering the behavior, of ornamental or crop
26 plants or the produce thereof; but does not include substances
27 intended as plant nutrients, trace elements, nutritional
28 chemicals, plant inoculants, or soil amendments.
- 29 (52) "Private applicator" means an individual who has
30 reached the age of majority and is licensed by the department
31 to use or supervise the use of any restricted-use pesticide

1 for purposes of producing any agricultural commodity on
2 property owned or rented by his or her employer, or, if
3 applied without compensation other than the trading of
4 personal services between producers of agricultural
5 commodities, on the property of another person.

6 (53) "Product" means a unique pesticide and label as
7 distinguished by its individually assigned United States
8 Environmental Protection Agency registration number, special
9 local need registration number, or experimental use permit
10 number.

11 (54) "Protect health and the environment" means
12 protection against any unreasonable adverse effects on people
13 or the environment.

14 (55) "Public applicator" means an individual who has
15 reached the age of majority and is licensed by the department
16 to use or supervise the use of restricted-use pesticides as an
17 employee of a state agency, municipal corporation, or other
18 governmental agency.

19 (56) "Product specific applicator" means an individual
20 who has reached the age of majority and is licensed by the
21 department to use or supervise the use of a particular
22 restricted-use pesticide product that is identified on the
23 license by the United States Environmental Protection Agency
24 registration number, as well as any Florida special local need
25 registration number and any specific identifying information
26 as deemed appropriate for nonfederally registered products
27 exempt under s. 18 of the Federal Insecticide, Fungicide, and
28 Rodenticide Act, provided that the restricted-use pesticide
29 product is used for the purpose of producing agricultural
30 commodities on property owned or rented by the licensee or the
31 licensee's employer, or is applied on the property of another

1 person without compensation other than trading of personal
2 services between producers of agricultural commodities.
3 (57) "Registrant" means the person registering any
4 pesticide pursuant to the provisions of this chapter ~~part~~.
5 (58) "Restricted-use pesticide" means a pesticide
6 which, when applied in accordance with its directions for use,
7 warnings, and cautions and for uses for which it is registered
8 or for one or more such uses, or in accordance with a
9 widespread and commonly recognized practice, may generally
10 cause, without additional regulatory restrictions,
11 unreasonable adverse effects on the environment, or injury to
12 the applicator or other persons, and which has been classified
13 as a restricted-use pesticide by the department or the
14 administrator of the United States Environmental Protection
15 Agency.
16 (59) "Sell or sale" includes exchanges.
17 (60) "Special local need registration" means a state
18 registration issued by the department as authorized in s.
19 24(c) of the Federal Insecticide, Fungicide, and Rodenticide
20 Act.
21 (61) "Special review" is a process for reviewing
22 selected pesticides based upon information that the pesticides
23 have been found to present environmental or health concerns
24 not considered in the registration process or that data
25 submitted in support of registration are inadequate or
26 outdated.
27 (62) "Tolerance" means the deviation from the
28 guaranteed analysis permitted by law.
29 (63) "Transportation of pesticides in bulk" means the
30 movement of a pesticide which is held in an individual
31

1 container in undivided quantities of greater than 55 U.S.
2 gallons liquid measure or 100 pounds net dry weight.

3 (64) "Under the direct supervision of a licensed
4 applicator" means, unless otherwise prescribed by its
5 labeling, a pesticide that must be applied by a competent
6 person acting under the instruction and control of a licensed
7 applicator who is available if and when needed, even though
8 the licensed applicator is not physically present when the
9 pesticide is applied.

10 (65) "Unreasonable adverse effects on the environment"
11 means any unreasonable risk to humans or the environment,
12 taking into account the economic, social, and environmental
13 costs and benefits of the use of any pesticide.

14 (66) "Vessel" means any type of watercraft or other
15 artificial contrivance used, or capable of being used, as a
16 means of transportation on water.

17 (67) "Weed" means any plant which grows where not
18 wanted.

19

20 Reviser's note.--Amended to improve clarity and
21 facilitate correct interpretation. Chapter 487
22 was formerly divided into two parts. Sections
23 comprising former part II of the chapter were
24 repealed by s. 21, ch. 99-4, Laws of Florida.

25

26 Section 11. Paragraph (f) of subsection (2) of section
27 487.025, Florida Statutes, is amended to read:

28 487.025 Misbranding.--

29 (2) A pesticide is misbranded if:

30 (f) Any word, statement, or other information required
31 by or under authority of this chapter ~~part~~ to appear on the

1 labeling is not prominently placed thereon with such
2 conspicuousness, as compared with other words, statements,
3 designs, or graphic matter in the labeling, and in such terms
4 as to render it likely to be read and understood by the
5 ordinary individual under customary conditions of purchase and
6 use.

7
8 Reviser's note.--Amended to improve clarity and
9 facilitate correct interpretation. Chapter 487
10 was formerly divided into two parts. Sections
11 comprising former part II of the chapter were
12 repealed by s. 21, ch. 99-4, Laws of Florida.

13
14 Section 12. Subsections (2), (4), and (5) and
15 paragraphs (g), (h), (l), (n), (p), (q), and (r) of subsection
16 (13) of section 487.031, Florida Statutes, are amended to
17 read:

18 487.031 Prohibited acts.--It is unlawful:

19 (2) To distribute, sell, or offer for sale within this
20 state any pesticide or product which has not been registered
21 pursuant to the provisions of this chapter part, except
22 pesticides distributed, sold, offered for sale, or used in
23 accordance with the provisions of federal or state
24 restriction, supervision, or cancellation orders or other
25 existing stock agreements.

26 (4) To detach, alter, deface, or destroy, in whole or
27 in part, any label or labeling provided for in this chapter
28 ~~part~~ or rules promulgated under this chapter part, or to add
29 any substance to, or take any substance from, any pesticide in
30 a manner that may defeat the purpose of this chapter part.

31

1 (5) For any person to use for his or her own advantage
2 or to reveal any information relative to formulas of products
3 acquired by authority of this chapter part, other than to: the
4 department, proper officials, or employees of the state; the
5 courts of this state in response to a subpoena; physicians,
6 pharmacists, and other qualified persons, in an emergency, for
7 use in the preparation of antidotes. The information relative
8 to formulas of products is confidential and exempt from the
9 provisions of s. 119.07(1).

10 (13) For any person to:

11 (g) Refuse or, after notice, neglect to comply with
12 the provisions of this chapter part, the rules adopted under
13 this chapter part, or any lawful order of the department;

14 (h) Refuse or neglect to keep and maintain the records
15 required by this chapter part or to submit reports when and as
16 required;

17 (l) Aid or abet a licensed or unlicensed person to
18 evade the provisions of this chapter part, or combine or
19 conspire with a licensed or unlicensed person to evade the
20 provisions of this chapter part, or allow a license to be used
21 by an unlicensed person;

22 (m) Make false or misleading statements, or fail to
23 report, pursuant to this chapter part, any suspected or known
24 damage to property or illness or injury to persons caused by
25 the application of pesticides;

26 (n) Fail to maintain a current liability insurance
27 policy or surety bond as provided for in this chapter part;

28 (o) Fail to adequately train, as provided for in this
29 chapter part, unlicensed applicators or mixer-loaders applying
30 restricted-use pesticides under the direct supervision of a
31 licensed applicator; or

1 (r) Fail to provide authorized representatives of the
2 department with records required by this chapter part or with
3 free access for inspection and sampling of any pesticide,
4 areas treated with or impacted by these materials, and
5 equipment used in their application.

6
7 Reviser's note.--Amended to improve clarity and
8 facilitate correct interpretation. Chapter 487
9 was formerly divided into two parts. Sections
10 comprising former part II of the chapter were
11 repealed by s. 21, ch. 99-4, Laws of Florida.

12
13 Section 13. Subsections (2), (3), and (8) of section
14 487.041, Florida Statutes, are amended to read:

15 487.041 Registration.--

16 (2) For the purpose of defraying expenses of the
17 department in connection with carrying out the provisions of
18 this chapter part, each person shall pay an annual
19 registration fee of \$225 for each registered pesticide. The
20 annual registration fee for each special local need label and
21 experimental use permit shall be \$100. All registrations
22 expire on December 31 of each year. Nothing in this section
23 shall be construed as applying to distributors or retail
24 dealers selling pesticides when such pesticides are registered
25 by another person.

26 (3) The department shall adopt rules governing the
27 procedures for pesticide registration and for the review of
28 data submitted by an applicant for registration of a
29 pesticide. The department shall determine whether a pesticide
30 should be registered, registered with conditions, or tested
31 under field conditions in this state. The department shall

1 determine that all requests for pesticide registrations meet
2 the requirements of current state and federal law. The
3 department, whenever it deems it necessary in the
4 administration of this chapter part, may require the
5 manufacturer or registrant to submit the complete formula,
6 quantities shipped into or manufactured in the state for
7 distribution and sale, evidence of the efficacy and the safety
8 of any pesticide, and other relevant data. The department, for
9 reasons of adulteration, misbranding, or other good cause, may
10 refuse or revoke the registration of any pesticide, after
11 notice to the applicant or registrant giving the reason for
12 the decision. The applicant may then request a hearing,
13 pursuant to chapter 120, on the intention of the department to
14 refuse or revoke registration, and, upon his or her failure to
15 do so, the refusal or revocation shall become final without
16 further procedure. In no event shall registration of a
17 pesticide be construed as a defense for the commission of any
18 offense prohibited under this chapter part.

19 (8) Nothing in this section affects the authority of
20 the department to administer the pesticide registration
21 program under this chapter part or the authority of the
22 Commissioner of Agriculture to approve the registration of a
23 pesticide.

24
25 Reviser's note.--Amended to improve clarity and
26 facilitate correct interpretation. Chapter 487
27 was formerly divided into two parts. Sections
28 comprising former part II of the chapter were
29 repealed by s. 21, ch. 99-4, Laws of Florida.

30
31

1 Section 14. Section 487.0435, Florida Statutes, is
2 amended to read:

3 487.0435 License classification.--The department shall
4 issue certified applicator licenses in the following
5 classifications: certified public applicator; certified
6 private applicator; and certified commercial applicator. In
7 addition, separate classifications and subclassifications may
8 be specified by the department in rule as deemed necessary to
9 carry out the provisions of this chapter ~~part~~. Each
10 classification shall be subject to requirements or testing
11 procedures to be set forth by rule of the department and shall
12 be restricted to the activities within the scope of the
13 respective classification as established in statute or by
14 rule. In specifying classifications, the department may
15 consider, but is not limited to, the following:

16 (1) Whether the license sought is for commercial,
17 public, or private applicator status.

18 (2) The method of applying the restricted-use
19 pesticide.

20 (3) The specific crops upon which restricted-use
21 pesticides are applied.

22 (4) The proximity of populated areas to the land upon
23 which restricted-use pesticides are applied.

24 (5) The acreage under the control of the licensee.

25 (6) The pounds of technical restricted toxicant
26 applied per acre per year by the licensee.

27
28 Reviser's note.--Amended to improve clarity and
29 facilitate correct interpretation. Chapter 487
30 was formerly divided into two parts. Sections
31

1 comprising former part II of the chapter were
2 repealed by s. 21, ch. 99-4, Laws of Florida.

3

4 Section 15. Section 487.045, Florida Statutes, is
5 amended to read:

6 487.045 Fees.--

7 (1) The department shall establish applicable fees by
8 rule. The fees shall not exceed \$250 for commercial
9 applicators or \$100 for private applicators and public
10 applicators, for initial licensing and for each subsequent
11 license renewal. The fees shall be determined annually and
12 shall represent department costs associated with enforcement
13 of the provisions of this chapter ~~part~~.

14 (2) Fees collected under the provisions of this
15 chapter ~~part~~ shall be deposited into the General Inspection
16 Trust Fund and shall be used to defray expenses in the
17 administration of this chapter.

18

19 Reviser's note.--Amended to improve clarity and
20 facilitate correct interpretation. Chapter 487
21 was formerly divided into two parts. Sections
22 comprising former part II of the chapter were
23 repealed by s. 21, ch. 99-4, Laws of Florida.

24

25 Section 16. Subsection (2) of section 487.046, Florida
26 Statutes, is amended to read:

27 487.046 Application; licensure.--

28 (2) If the department finds the applicant qualified in
29 the classification for which the applicant has applied, and if
30 the applicant applying for a license to engage in aerial
31 application of pesticides has met all of the requirements of

1 the Federal Aviation Agency and the Department of
2 Transportation of this state to operate the equipment
3 described in the application and has shown proof of liability
4 insurance or posted a surety bond in an amount to be set forth
5 by rule of the department, the department shall issue a
6 certified applicator's license, limited to the classifications
7 for which the applicant is qualified. The license shall expire
8 as required by rules promulgated under this chapter part,
9 unless it has been revoked or suspended by the department
10 prior to expiration, for cause as provided in this chapter
11 part. The license or authorization card issued by the
12 department verifying licensure shall be kept on the person of
13 the licensee while performing work as a licensed applicator.

14

15 Reviser's note.--Amended to improve clarity and
16 facilitate correct interpretation. Chapter 487
17 was formerly divided into two parts. Sections
18 comprising former part II of the chapter were
19 repealed by s. 21, ch. 99-4, Laws of Florida.

20

21 Section 17. Section 487.047, Florida Statutes, is
22 amended to read:

23 487.047 Nonresident license; reciprocal agreement;
24 authorized purchase.--

25 (1) The department may waive all or part of the
26 examination requirements provided for in this chapter part on
27 a reciprocal basis with any other state or agency, or an
28 Indian tribe, that has substantially the same or better
29 standards.

30 (2) Any nonresident applying for a license under this
31 chapter part to operate in the state shall file a Designation

1 of Registered Agent naming the Secretary of State as the agent
2 of the nonresident, upon whom process may be served in the
3 event of any suit against the nonresident. The designation
4 shall be prepared on a form provided by the department and
5 shall render effective the jurisdiction of the courts of this
6 state over the nonresident applicant. However, any nonresident
7 who has a duly appointed registered agent upon whom process
8 may be served as provided by law shall not be required to
9 designate the Secretary of State as registered agent. The
10 Secretary of State shall be allowed the registered-agent fees
11 as provided by law for designating registered agents. The
12 department shall be furnished with a copy of the designation
13 of the Secretary of State or of a registered agent which is
14 certified by the Secretary of State. The Secretary of State
15 shall notify the department of any service of process it
16 receives as registered agent for persons licensed under this
17 chapter part.

18 (3) Restricted-use pesticides may be purchased by any
19 person who holds a valid applicator's license or who holds a
20 valid purchase authorization card issued by the department or
21 by a licensee under chapter 482 or chapter 388. A nonlicensed
22 person may apply restricted-use pesticides under the direct
23 supervision of a licensed applicator. An applicator's license
24 shall be issued by the department on a form supplied by it in
25 accordance with the requirements of this chapter part.

26
27 Reviser's note.--Amended to improve clarity and
28 facilitate correct interpretation. Chapter 487
29 was formerly divided into two parts. Sections
30 comprising former part II of the chapter were
31 repealed by s. 21, ch. 99-4, Laws of Florida.

1 Section 18. Subsection (1) of section 487.048, Florida
2 Statutes, is amended to read:

3 487.048 Dealer's license; records.--

4 (1) Each person holding or offering for sale, selling,
5 or distributing restricted-use pesticides shall obtain a
6 dealer's license from the department. Application for the
7 license shall be made on a form prescribed by the department.
8 The license must be obtained before entering into business or
9 transferring ownership of a business. The department may
10 require examination or other proof of competency of
11 individuals to whom licenses are issued or of individuals
12 employed by persons to whom licenses are issued. Demonstration
13 of continued competency may be required for license renewal,
14 as set by rule. The license shall be renewed annually as
15 provided by rule. An annual license fee not exceeding \$250
16 shall be established by rule. However, a user of a
17 restricted-use pesticide may distribute unopened containers of
18 a properly labeled pesticide to another user who is legally
19 entitled to use that restricted-use pesticide without
20 obtaining a pesticide dealer's license. The exclusive purpose
21 of distribution of the restricted-use pesticide is to keep it
22 from becoming a hazardous waste as defined in s. 403.703(21)
23 ~~403.703(23)~~.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of s. 403.703(23) as s.
27 403.703(21) necessitated by the repeal of s.
28 403.703(18) and (19) by s. 8, ch. 93-207, Laws
29 of Florida.
30
31

1 Section 19. Subsection (1) of section 487.049, Florida
2 Statutes, is amended to read:

3 487.049 Renewal; late fee; recertification.--

4 (1) The department shall require renewal of a
5 certified applicator's license at 4-year intervals from the
6 date of issuance. If the application for renewal of any
7 license provided for in this chapter ~~part~~ is not filed on
8 time, a late fee shall be assessed not to exceed \$50. However,
9 the penalty shall not apply if the renewal application is
10 filed within 60 days after the renewal date, provided the
11 applicant furnishes an affidavit certifying that he or she has
12 not engaged in business subsequent to the expiration of the
13 license for a period not exceeding 60 days. A license may be
14 renewed without taking another examination unless the
15 department determines that new knowledge related to the
16 classification for which the applicant has applied makes a new
17 examination necessary; however, the department may require the
18 applicant to provide evidence of continued competency, as
19 determined by rule. If the license is not renewed within 60
20 days of the expiration date, then the licensee may again be
21 required to take another examination, unless there is some
22 unavoidable circumstance which results in the delay of the
23 renewal of any license issued under this chapter ~~part~~ which
24 was not under the applicant's control.

25
26 Reviser's note.--Amended to improve clarity and
27 facilitate correct interpretation. Chapter 487
28 was formerly divided into two parts. Sections
29 comprising former part II of the chapter were
30 repealed by s. 21, ch. 99-4, Laws of Florida.

31

1 Section 20. Paragraph (b) of subsection (1) and
2 subsection (2) of section 487.051, Florida Statutes, are
3 amended to read:

4 487.051 Administration; rules; procedure.--

5 (1) The department may by rule:

6 (b) Establish procedures for the taking and handling
7 of samples and establish tolerances and deficiencies where not
8 specifically provided for in this chapter part; assess
9 penalties; and prohibit the sale or use of pesticides or
10 devices shown to be detrimental to human beings, the
11 environment, or agriculture or to be otherwise of questionable
12 value.

13 (2) The department is authorized to adopt by rule the
14 primary standards established by the United States
15 Environmental Protection Agency with respect to pesticides. If
16 the provisions of this chapter part are preempted in part by
17 federal law, those provisions not preempted shall apply. This
18 chapter part is intended as comprehensive and exclusive
19 regulation of pesticides in this state. Except as provided in
20 chapters 373, 376, 388, 403, and 482, or as otherwise provided
21 by law, no agency, commission, department, county,
22 municipality, or other political subdivision of the state may
23 adopt laws, regulations, rules, or policies pertaining to
24 pesticides, including their registration, packaging, labeling,
25 distribution, sale, or use, except that local jurisdictions
26 may adopt or enforce an ordinance pertaining to pesticides if
27 that ordinance is in the area of occupational license taxes,
28 building and zoning regulations, disposal or spillage of
29 pesticides within a water well zone, or pesticide safety
30 regulations relating to containment at the storage site.

31

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Chapter 487
3 was formerly divided into two parts. Sections
4 comprising former part II of the chapter were
5 repealed by s. 21, ch. 99-4, Laws of Florida.

6
7 Section 21. Subsection (4) of section 487.0615,
8 Florida Statutes, is amended to read:

9 487.0615 Pesticide Review Council.--

10 (4) The council is defined as a "substantially
11 interested person" and has standing under chapter 120 in any
12 proceeding conducted by the department relating to the
13 registration of a pesticide under this chapter ~~part~~. The
14 standing of the council shall in no way prevent individual
15 members of the council from exercising standing in these
16 matters.

17
18 Reviser's note.--Amended to improve clarity and
19 facilitate correct interpretation. Chapter 487
20 was formerly divided into two parts. Sections
21 comprising former part II of the chapter were
22 repealed by s. 21, ch. 99-4, Laws of Florida.

23
24 Section 22. Subsections (1), (2), (3), (4), and (6)
25 and paragraphs (a) and (e) of subsection (7) of section
26 487.071, Florida Statutes, are amended to read:

27 487.071 Enforcement, inspection, sampling, and
28 analysis.--

29 (1) The department is authorized to enter upon any
30 public or private premises or carrier where pesticides are
31 known or thought to be distributed, sold, offered for sale,

1 held, stored, or applied, during regular business hours in the
2 performance of its duties relating to pesticides and records
3 pertaining to pesticides. No person shall deny or refuse
4 access to the department when it seeks to enter upon any
5 public or private premises or carrier during business hours in
6 performance of its duties under this chapter part.

7 (2) The department is authorized and directed to
8 sample, test, inspect, and make analyses of pesticides sold,
9 offered for sale, distributed, or used within this state, at a
10 time and place and to such an extent as it may deem necessary,
11 to determine whether the pesticides or persons exercising
12 control over the pesticides are in compliance with the
13 provisions of this chapter part, the rules adopted under this
14 chapter part, and the provisions of the pesticide label or
15 labeling.

16 (3) The official analysis shall be made from the
17 official sample. A sealed and identified sample, herein called
18 "official check sample" shall be kept until the analysis on
19 the official sample is completed. However, the registrant may
20 obtain upon request a portion of the official sample. Upon
21 completion of the analysis of the official sample, a true copy
22 of the certificate of analysis shall be mailed to the
23 registrant of the pesticide from whom the official sample was
24 taken and also to the dealer or agent, if any, and consumer,
25 if known. If the official analysis conforms with the
26 provisions of this chapter part, the official check sample may
27 be destroyed. If the official analysis does not conform with
28 the provisions of this chapter part, the rules adopted under
29 this chapter part, and the provisions of the pesticide label
30 or labeling, the official check sample shall be retained for a
31 period of 90 days from the date of the certificate of analysis

1 of the official sample. If within that time the registrant of
2 the pesticide from whom the official sample was taken makes
3 demand for analysis by a referee chemist, a portion of the
4 official check sample sufficient for analysis shall be sent to
5 a referee chemist who is mutually acceptable to the department
6 and the registrant for analysis at the expense of the
7 registrant. Upon completion of the analysis, the referee
8 chemist shall forward to the department and to the registrant
9 a certificate of analysis bearing a proper identification mark
10 or number; and such certificate of analysis shall be verified
11 by an affidavit of the person or laboratory making the
12 analysis. If the certificate of analysis checks within 3
13 percent of the department's analysis on each active ingredient
14 for which analysis was made, the mean average of the two
15 analyses shall be accepted as final and binding on all
16 concerned. However, if the referee's certificate of analysis
17 shows a variation of greater than 3 percent from the
18 department's analysis in any one or more of the active
19 ingredients for which an analysis was made, upon demand of
20 either the department or the registrant from whom the official
21 sample was taken, a portion of the official check sample
22 sufficient for analysis shall be submitted to a second referee
23 chemist who is mutually acceptable to the department and the
24 registrant, at the expense of the party or parties requesting
25 the referee analysis. Upon completion of the analysis, the
26 second referee chemist shall make a certificate and report as
27 provided in this subsection for the first referee chemist. The
28 mean average of the two analyses nearest in conformity shall
29 be accepted as final and binding on all concerned. If no
30 demand is made for an analysis by a second referee chemist,
31

1 the department's certificate of analysis shall be accepted as
2 final and binding on all concerned.

3 (4) If a pesticide or device fails to comply with the
4 provisions of this chapter part with reference to the
5 ingredient statement reflecting the composition of the
6 product, as required on the registration and labeling, and the
7 department contemplates possible criminal proceedings against
8 the person responsible because of this violation, the
9 department shall, after due notice, accord the person an
10 informal hearing or an opportunity to present evidence and
11 opinions, either orally or in writing, with regard to such
12 contemplated proceedings. If in the opinion of the department
13 the facts warrant, the department may refer the facts to the
14 state attorney for the county in which the violation occurred,
15 with a copy of the results of the analysis or the examination
16 of such article; provided that nothing in this chapter part
17 shall be construed as requiring the department to report for
18 prosecution minor violations whenever it believes that the
19 public interest will be subserved by a suitable notice of
20 warning in writing.

21 (6) The department shall, by publication in such
22 manner as it may prescribe, give notice of all judgments
23 entered in actions instituted under the authority of this
24 chapter part.

25 (7)(a) The department may analyze pesticide samples
26 upon request in a manner consistent with this chapter part.

27 (e) In addition to any other penalty provided by this
28 chapter part, the registrant of any pesticide found to be
29 adulterated, misbranded, or otherwise deficient shall
30 reimburse the person requesting the pesticide analysis under
31

1 this subsection for all fees assessed by and paid to the
2 department.

3

4 Reviser's note.--Amended to improve clarity and
5 facilitate correct interpretation. Chapter 487
6 was formerly divided into two parts. Sections
7 comprising former part II of the chapter were
8 repealed by s. 21, ch. 99-4, Laws of Florida.

9

10 Section 23. Subsections (2), (3), and (4) of section
11 487.081, Florida Statutes, are amended to read:

12 487.081 Exemptions.--

13 (2) No article shall be deemed in violation of this
14 chapter part when intended solely for export to a foreign
15 country and when prepared or packed according to the
16 specifications or directions of the purchaser.

17 (3) Notwithstanding any other provision of this
18 chapter part, registration required under this chapter part is
19 not required in the case of a pesticide stored or shipped from
20 one manufacturing plant within this state to another
21 manufacturing plant within this state operated by the same
22 person.

23 (4) Nothing in this chapter part shall be construed to
24 apply to persons duly licensed or certified under chapter 388
25 or chapter 482 performing any pest control or other operation
26 for which they are licensed or certified under those chapters.

27

28 Reviser's note.--Amended to improve clarity and
29 facilitate correct interpretation. Chapter 487
30 was formerly divided into two parts. Sections

31

1 comprising former part II of the chapter were
2 repealed by s. 21, ch. 99-4, Laws of Florida.

3

4 Section 24. Subsection (2) of section 487.091, Florida
5 Statutes, is amended to read:

6 487.091 Tolerances, deficiencies, and penalties.--

7 (2) If a pesticide is found by analysis to be
8 deficient in an active ingredient beyond the tolerance as
9 provided in this chapter part, the registrant is subject to a
10 penalty for the deficiency, not to exceed \$10,000 per
11 violation. However, no penalty shall be assessed when the
12 official sample was taken from a pesticide that was in the
13 possession of a consumer for more than 45 days from the date
14 of purchase by that consumer, or when the product label
15 specifies that the product should be used by an expiration
16 date that has passed. Procedures for assessing penalties shall
17 be established by rule, based on the degree of the deficiency.
18 Penalties assessed shall be paid to the consumer or, in the
19 absence of a known consumer, the department. If the penalty is
20 not paid within the prescribed period of time as established
21 by rule, the department may deny, suspend, or revoke the
22 registration of any pesticide.

23

24 Reviser's note.--Amended to improve clarity and
25 facilitate correct interpretation. Chapter 487
26 was formerly divided into two parts. Sections
27 comprising former part II of the chapter were
28 repealed by s. 21, ch. 99-4, Laws of Florida.

29

30 Section 25. Section 487.101, Florida Statutes, is
31 amended to read:

1 487.101 Stop-sale, stop-use, removal, or hold
2 orders.--
3 (1) When a pesticide or device is being offered or
4 exposed for sale, used, or held in violation of any of the
5 provisions of this chapter part, the department may issue and
6 enforce a stop-sale, stop-use, removal, or hold order, in
7 writing, to the owner or custodian of the pesticide or device,
8 ordering that the pesticide or device be held at a designated
9 place until the chapter part has been complied with and the
10 pesticide or device is released, in writing, by the department
11 or the violation has been disposed of by court order.
12 (2) The written notice is warning to all persons,
13 including, but not limited to, the owner or custodian of the
14 pesticide or the owner's or custodian's agents or employees,
15 to scrupulously refrain from moving, bothering, altering, or
16 interfering with the pesticide or device or from altering,
17 defacing, or in any way interfering with the written notice or
18 permitting the same to be done. The willful violation of these
19 provisions is a misdemeanor, subjecting the violator to the
20 penalty provisions of this chapter part.
21 (3) The department shall release the pesticide or
22 device under a stop-sale, stop-use, removal, or hold order
23 when the owner or custodian complies with the provisions of
24 this chapter part.
25 (4) The owner or custodian, with authorization and
26 supervision of the department, may relabel the pesticide or
27 device so that the label will conform to the product, or
28 transfer and return the product to the manufacturer or
29 supplier for the purpose of bringing the product in compliance
30 with the provisions of this chapter part.
31

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Chapter 487
3 was formerly divided into two parts. Sections
4 comprising former part II of the chapter were
5 repealed by s. 21, ch. 99-4, Laws of Florida.
6

7 Section 26. Subsection (1) of section 487.111, Florida
8 Statutes, is amended to read:

9 487.111 Seizure, condemnation, and sale.--

10 (1) Any lot of pesticide or device not in compliance
11 with the provisions of this chapter part is subject to seizure
12 on complaint of the department to the circuit court in the
13 county in which the pesticide or device is located. In the
14 event the court finds the pesticide or device in violation of
15 this chapter part and orders it condemned, it shall be
16 disposed of as the court may direct; provided that in no
17 instance shall the disposition of the pesticide or device be
18 ordered by the court without first giving the owner or
19 custodian an opportunity to apply to the court for release of
20 the pesticide or device or for permission to process or
21 relabel it to bring it into compliance with this chapter part.
22

23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation. Chapter 487
25 was formerly divided into two parts. Sections
26 comprising former part II of the chapter were
27 repealed by s. 21, ch. 99-4, Laws of Florida.
28

29 Section 27. Section 487.13, Florida Statutes, is
30 amended to read:
31

1 487.13 Cooperation.--The department is authorized and
2 empowered to cooperate with and enter into agreements with any
3 other agency of this state, the United States Department of
4 Agriculture, the United States Environmental Protection
5 Agency, and any other state or federal agency for the purpose
6 of carrying out the provisions of this chapter ~~part~~ and
7 securing uniformity of regulations.

8
9 Reviser's note.--Amended to improve clarity and
10 facilitate correct interpretation. Chapter 487
11 was formerly divided into two parts. Sections
12 comprising former part II of the chapter were
13 repealed by s. 21, ch. 99-4, Laws of Florida.

14
15 Section 28. Section 487.156, Florida Statutes, is
16 amended to read:

17 487.156 Governmental agencies.--All governmental
18 agencies shall be subject to the provisions of this chapter
19 and rules adopted under this chapter ~~part~~. Public applicators
20 using or supervising the use of restricted-use pesticides
21 shall be subject to examination as provided in s. 487.044.

22
23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation. Chapter 487
25 was formerly divided into two parts. Sections
26 comprising former part II of the chapter were
27 repealed by s. 21, ch. 99-4, Laws of Florida.

28
29 Section 29. Subsection (1) of section 487.159, Florida
30 Statutes, is amended to read:

31

1 487.159 Damage or injury to property, animal, or
2 person; mandatory report of damage or injury; time for filing;
3 failure to file.--

4 (1) The person claiming damage or injury to property,
5 animal, or human beings from application of a pesticide shall
6 file with the department a written statement claiming damages,
7 on a form prescribed by the department, within 48 hours after
8 the damage or injury becomes apparent. The statement shall
9 contain, but shall not be limited to, the name of the person
10 responsible for the application of the pesticide, the name of
11 the owner or lessee of the land on which the crop is grown and
12 for which the damages are claimed, and the date on which it is
13 alleged that the damages occurred. The department shall
14 investigate the alleged damages and notify all concerned
15 parties of its findings. If the findings reveal a violation of
16 the provisions of this chapter ~~part~~, the department shall
17 determine an appropriate penalty, as provided in this chapter
18 ~~part~~. The filing of a statement or the failure to file such a
19 statement need not be alleged in any complaint which might be
20 filed in a court of law, and the failure to file the statement
21 shall not be considered any bar to the maintenance of any
22 criminal or civil action.

23
24 Reviser's note.--Amended to improve clarity and
25 facilitate correct interpretation. Chapter 487
26 was formerly divided into two parts. Sections
27 comprising former part II of the chapter were
28 repealed by s. 21, ch. 99-4, Laws of Florida.

29
30 Section 30. Section 487.161, Florida Statutes, is
31 amended to read:

1 487.161 Exemptions, nonagricultural pest control and
2 research.--

3 (1) Any person duly licensed or certified under
4 chapter 482, or under the supervision of chapter 388, is
5 exempted from the licensing provisions of this chapter ~~part~~.

6 (2) The use of the antibiotic oxytetracycline
7 hydrochloride for the purpose of controlling lethal yellowing
8 is exempted from the licensing provisions of this chapter
9 ~~part~~.

10 (3) The personnel of governmental, university, or
11 industrial research agencies are exempted from the provisions
12 of this chapter ~~part~~ when doing applied research within a
13 laboratory, but shall comply with all the provisions of this
14 chapter ~~part~~ when applying restricted-use pesticides to
15 experimental or demonstration plots.

16
17 Reviser's note.--Amended to improve clarity and
18 facilitate correct interpretation. Chapter 487
19 was formerly divided into two parts. Sections
20 comprising former part II of the chapter were
21 repealed by s. 21, ch. 99-4, Laws of Florida.

22
23 Section 31. Section 487.163, Florida Statutes, is
24 amended to read:

25 487.163 Information; interagency cooperation.--

26 (1) The department may, in cooperation with the
27 University of Florida or other agencies of government, publish
28 information and conduct short courses of instruction in the
29 safe use and application of pesticides for the purpose of
30 carrying out the provisions of this chapter ~~part~~.

31

1 (2) The department may cooperate or enter into formal
2 agreements with any other agency or educational institution of
3 this state or its subdivisions or with any agency of any other
4 state or of the Federal Government for the purpose of carrying
5 out the provisions of this chapter ~~part~~ and of securing
6 uniformity of regulations.

7
8 Reviser's note.--Amended to improve clarity and
9 facilitate correct interpretation. Chapter 487
10 was formerly divided into two parts. Sections
11 comprising former part II of the chapter were
12 repealed by s. 21, ch. 99-4, Laws of Florida.

13
14 Section 32. Subsections (1), (2), and (3) of section
15 487.171, Florida Statutes, are amended to read:

16 487.171 Classification of antifouling paint containing
17 organotin compounds as restricted-use pesticides; prohibition
18 of distribution and sale.--

19 (1) The department shall classify antifouling paints
20 containing organotin compounds having an acceptable release
21 rate as restricted-use pesticides subject to the requirements
22 of this chapter ~~part~~. Antifouling paints containing organotin
23 having acceptable release rates and sold in spray cans of 16
24 ounces avoirdupois weight or less for outboard motor or lower
25 unit use are exempt from the restricted-use pesticide
26 classification requirement.

27 (2) The department shall initiate action under chapter
28 120, to deny or cancel the registration of antifouling paints
29 containing organotin compounds which do not have an acceptable
30 release rate or do not meet other criteria established by the
31 department in accordance with this chapter ~~part~~.

1 (3) Distribution, sale, and use of antifouling paints
2 containing organotin compounds with acceptable release rates
3 shall be limited to dealers and applicators licensed by the
4 department in accordance with this chapter part, to
5 distribute, sell, or use restricted-use pesticides. Such paint
6 may be applied only by licensed applicators and may be applied
7 only to vessels which exceed 25 meters in length or which have
8 aluminum hulls.

9
10 Reviser's note.--Amended to improve clarity and
11 facilitate correct interpretation. Chapter 487
12 was formerly divided into two parts. Sections
13 comprising former part II of the chapter were
14 repealed by s. 21, ch. 99-4, Laws of Florida.

15
16 Section 33. Section 487.175, Florida Statutes, is
17 amended to read:

18 487.175 Penalties; administrative fine; injunction.--

19 (1) In addition to any other penalty provided in this
20 chapter part, when the department finds any person, applicant,
21 or licensee has violated any provision of this chapter part or
22 rule adopted under this chapter part, it may enter an order
23 imposing any one or more of the following penalties:

24 (a) Denial of an application for licensure.

25 (b) Revocation or suspension of a license.

26 (c) Issuance of a warning letter.

27 (d) Placement of the licensee on probation for a
28 specified period of time and subject to conditions the
29 department may specify by rule, including requiring the
30 licensee to attend continuing education courses, to
31 demonstrate competency through a written or practical

1 examination, or to work under the direct supervision of
2 another licensee.

3 (e) Imposition of an administrative fine not to exceed
4 \$10,000 for each violation. When imposing any fine under this
5 paragraph, the department shall consider the degree and extent
6 of harm caused by the violation, the cost of rectifying the
7 damage, the amount of money the violator benefited from by
8 noncompliance, whether the violation was committed willfully,
9 and the compliance record of the violator.

10 (2) Any person who violates any provision of this
11 chapter part or rules adopted pursuant thereto commits a
12 misdemeanor of the second degree and upon conviction is
13 punishable as provided in ss. 775.082 and 775.083. For a
14 subsequent violation, such person commits a misdemeanor of the
15 first degree and upon conviction is punishable as provided in
16 ss. 775.082 and 775.083.

17 (3) In addition to the remedies provided in this
18 chapter part and notwithstanding the existence of any adequate
19 remedy at law, the department may bring an action to enjoin
20 the violation or threatened violation of any provision of this
21 chapter part, or rule adopted under this chapter part, in the
22 circuit court of the county in which the violation occurred or
23 is about to occur. Upon the department's presentation of
24 competent and substantial evidence to the court of the
25 violation or threatened violation, the court shall immediately
26 issue the temporary or permanent injunction sought by the
27 department. The injunction shall be issued without bond. A
28 single act in violation of any provision of this chapter part
29 shall be sufficient to authorize the issuance of an
30 injunction.

31

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Chapter 487
3 was formerly divided into two parts. Sections
4 comprising former part II of the chapter were
5 repealed by s. 21, ch. 99-4, Laws of Florida.
6

7 Section 34. Subsection (5) of section 489.103, Florida
8 Statutes, is amended to read:

9 489.103 Exemptions.--This part does not apply to:

10 (5) Public utilities, including special gas districts
11 as defined in chapter 189, telecommunications companies as
12 defined in s. 364.02(12)~~364.02(7)~~, and natural gas
13 transmission companies as defined in s. 368.103(4), on
14 construction, maintenance, and development work performed by
15 their employees, which work, including, but not limited to,
16 work on bridges, roads, streets, highways, or railroads, is
17 incidental to their business. The board shall define, by rule,
18 the term "incidental to their business" for purposes of this
19 subsection.
20

21 Reviser's note.--Amended to conform to the
22 redesignation of s. 364.02(7) as s. 364.02(12)
23 by s. 6, ch. 95-403, Laws of Florida.
24

25 Section 35. Paragraph (a) of subsection (1) of section
26 489.1136, Florida Statutes, is amended to read:

27 489.1136 Medical gas certification.--

28 (1)(a) In addition to the certification or
29 registration required to engage in business as a plumbing
30 contractor, any plumbing contractor who wishes to engage in
31 the business of installation, improvement, repair, or

1 maintenance of any tubing, pipe, or similar conduit used to
2 transport gaseous or partly gaseous substances for medical
3 purposes shall take, as part of the contractor's continuing
4 education requirement, at least once during the holding of
5 such license, a course of at least ~~of~~ 6 hours. Such course
6 shall be given by an instructional facility or teaching entity
7 that has been approved by the board. In order for a course to
8 be approved, the board must find that the course is designed
9 to teach familiarity with the National Fire Prevention
10 Association Standard 99C (Standard on Gas and Vacuum Systems,
11 latest edition) and also designed to teach familiarity and
12 practical ability in performing and inspecting brazing duties
13 required of medical gas installation, improvement, repair, or
14 maintenance work. Such course shall issue a certificate of
15 completion to the taker of the course, which certificate shall
16 be available for inspection by any entity or person seeking to
17 have such contractor engage in the business of installation,
18 improvement, repair, or maintenance of a medical gas system.

19

20 Reviser's note.--Amended to improve clarity and
21 facilitate correct interpretation.

22

23 Section 36. Subsection (10) of section 489.131,
24 Florida Statutes, is amended to read:

25 489.131 Applicability.--

26 (10) No municipal or county government may issue any
27 certificate of competency or license for any contractor
28 defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless
29 such local government exercises disciplinary control and
30 oversight over such locally licensed contractors, including
31 forwarding a recommended order in each action to the board as

1 provided in subsection (7). Each local board that licenses and
2 disciplines contractors must have at least two consumer
3 representatives on that board. If the board has seven or more
4 members, at least three of those members must be consumer
5 representatives. The consumer representative may be any
6 resident of the local jurisdiction who ~~that~~ is not, and has
7 never been, a member or practitioner of a profession regulated
8 by the board or a member of any closely related profession.

9
10 Reviser's note.--Amended to improve clarity and
11 facilitate correct interpretation.

12
13 Section 37. Subsection (6) of section 489.133, Florida
14 Statutes, is amended to read:

15 489.133 Pollutant storage systems specialty
16 contractors; definitions; certification; restrictions.--

17 (6) Any person who operates as a pollutant storage
18 systems specialty contractor, precision tank tester, or
19 internal pollutant storage tank lining applicator in violation
20 of this section or any person who violates subsection (5) ~~(6)~~
21 commits a felony of the third degree, punishable as provided
22 in s. 775.082, s. 775.083, or s. 775.084.

23
24 Reviser's note.--Amended to conform to the
25 redesignation of former subsection (6) of s.
26 489.133 as subsection (5) by s. 30, ch. 93-166,
27 Laws of Florida.

28
29 Section 38. Subsection (1) of section 489.140, Florida
30 Statutes, is amended to read:

31

1 489.140 Construction Industries Recovery Fund.--There
2 is created the Florida Construction Industries Recovery Fund
3 as a separate account in the Professional Regulation Trust
4 Fund.

5 (1) The Florida Construction Industries Recovery Fund
6 shall be disbursed as provided in s. 489.143, on order of the
7 board, as reimbursement to any natural person adjudged by a
8 court of competent jurisdiction to have suffered monetary
9 damages, or to whom the licensee has been ordered to pay
10 restitution by the board, where the judgment or restitution
11 order is based on a violation of s. 489.129(1)(g), (j), or (k)
12 ~~489.129(1)(d), (h), (k), or (l)~~, committed by any contractor,
13 financially responsible officer, or business organization
14 licensed under the provisions of this part at the time the
15 violation was committed, and providing that the violation
16 occurs after July 1, 1993.

17
18 Reviser's note.--Amended to conform to the
19 repeal of s. 489.129(1)(d) by s. 9, ch. 98-419,
20 Laws of Florida, and the redesignation of s.
21 489.129(1)(h), (k), and (l) as s.
22 489.129(1)(g), (j), and (k) necessitated by the
23 repeal of paragraph (1)(d).

24
25 Section 39. Paragraph (a) of subsection (1) of section
26 489.141, Florida Statutes, is amended to read:

27 489.141 Conditions for recovery; eligibility.--

28 (1) Any person is eligible to seek recovery from the
29 Construction Industries Recovery Fund after having made a
30 claim and exhausting the limits of any available bond, cash
31

1 bond, surety, guarantee, warranty, letter of credit, or policy
2 of insurance, if:

3 (a) Such person has received final judgment in a court
4 of competent jurisdiction in this state in any action wherein
5 the cause of action was based on a construction contract or
6 the Construction Industry Licensing Board has issued a final
7 order directing the licensee to pay restitution to the
8 claimant based upon a violation of s. 489.129(1)(g), (j), or
9 (k)~~489.129(1)(d), (h), (k), or (l)~~, where the contract was
10 executed and the violation occurred on or after July 1, 1993,
11 and provided that:

12 1.a. Such person has caused to be issued a writ of
13 execution upon such judgment, and the officer executing the
14 writ has made a return showing that no personal or real
15 property of the judgment debtor or licensee liable to be
16 levied upon in satisfaction of the judgment can be found or
17 that the amount realized on the sale of the judgment debtor's
18 or licensee's property pursuant to such execution was
19 insufficient to satisfy the judgment; or

20 b. If such person is unable to comply with
21 sub-subparagraph a. for a valid reason to be determined by the
22 board, such person has made all reasonable searches and
23 inquiries to ascertain whether the judgment debtor or licensee
24 is possessed of real or personal property or other assets
25 subject to being sold or applied in satisfaction of the
26 judgment and by his or her search has discovered no property
27 or assets or has discovered property and assets and has taken
28 all necessary action and proceedings for the application
29 thereof to the judgment but the amount thereby realized was
30 insufficient to satisfy the judgment; or

31

1 2. The claimant has made a diligent attempt, as
2 defined by board rule, to collect the restitution awarded by
3 the board;

4
5 Reviser's note.--Amended to conform to the
6 repeal of s. 489.129(1)(d) by s. 9, ch. 98-419,
7 Laws of Florida, and the redesignation of s.
8 489.129(1)(h), (k), and (l) as s.
9 489.129(1)(g), (j), and (k) necessitated by the
10 repeal of paragraph (1)(d).

11
12 Section 40. Paragraph (i) of subsection (1) of section
13 489.531, Florida Statutes, is amended to read:

14 489.531 Prohibitions; penalties.--

15 (1) A person may not:

16 (i) Commence or perform work for which a building
17 permit is required pursuant to part VII of chapter 553 ~~533~~
18 ~~code~~ without the building permit being in effect; or

19
20 Reviser's note.--Amended to correct an apparent
21 error. Chapter 533, which relates to mining
22 wastes, is not divided into parts, and part VII
23 of chapter 553 relates to building permits. The
24 word "code" is deleted to improve clarity and
25 facilitate correct interpretation.

26
27 Section 41. Subsection (2) of section 494.0038,
28 Florida Statutes, is amended to read:

29 494.0038 Mortgage broker disclosures.--

30 (2) At the time a written agreement is executed by the
31 borrower or at the time the mortgage brokerage business

1 accepts an application fee, credit report fee, property
2 appraisal fee, or any other third-party fee, the mortgage
3 brokerage business shall disclose in writing to any applicant
4 for a mortgage loan the following information:

5 (a) That such mortgage brokerage business may not make
6 mortgage loans or commitments. The mortgage brokerage
7 business may make a commitment and may furnish a lock-in of
8 the rate and program on behalf of the lender when the mortgage
9 brokerage business has obtained a written commitment or
10 lock-in for the loan from the lender on behalf of the borrower
11 for the loan. The commitment must be in the same form and
12 substance as issued by the lender.

13 (b) That such mortgage brokerage business cannot
14 guarantee acceptance into any particular loan program or
15 promise any specific loan terms or conditions.

16 (c) A good faith estimate of the credit report fee,
17 property appraisal fee, or any other third-party fee and the
18 terms and conditions for obtaining a refund of such fees, if
19 any. Any amount collected in excess of the actual cost shall
20 be returned within 60 days after rejection, withdrawal, or
21 closing.

22

23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation.

25

26 Section 42. Subsections (2) and (3) of section
27 497.255, Florida Statutes, are amended to read:

28 497.255 Standards for construction and significant
29 alteration or renovation of mausoleums and columbaria.--

30 (2) The board shall adopt, by no later than July 1,
31 1999, rules establishing minimum standards for all newly

1 constructed and significantly altered or renovated mausoleums
2 and columbaria; however, in the case of significant
3 alterations or renovations to existing structures, the rules
4 shall apply only, when physically feasible, to the newly
5 altered or renovated portion of such structures, except as
6 specified in subsection (4). In developing and promulgating
7 said rules, the board may define different classes of
8 structures or construction standards, and may provide for
9 different rules to apply to each of said classes, if the
10 designation of classes and the application of different rules
11 is in the public interest and is supported by findings by the
12 board based on evidence of industry practices, economic and
13 physical feasibility, location, or intended uses; provided,
14 that the rules shall provide minimum standards applicable to
15 all construction. For example, and without limiting the
16 generality of the foregoing, the board may determine that a
17 small single-story ground level mausoleum does not require the
18 same level of construction standards that a large multistory
19 mausoleum might require; or that a mausoleum located in a
20 low-lying area subject to frequent flooding or hurricane
21 threats might require different standards than one located on
22 high ground in an area not subject to frequent severe weather
23 threats. The board shall develop the rules in cooperation
24 with, and with technical assistance from, the Florida Building
25 Commission ~~Board of Building Codes and Standards~~ of the
26 Department of Community Affairs, to ensure that the rules are
27 in the proper form and content to be included as part of the
28 State Minimum Building Codes under part VII of chapter 553. If
29 the Florida Building Commission ~~Board of Building Codes and~~
30 ~~Standards~~ advises that some of the standards proposed by the
31 board are not appropriate for inclusion in such building

1 codes, the board may choose to include those standards in a
2 distinct chapter of its rules entitled "Non-Building-Code
3 Standards for Mausoleums" or "Additional Standards for
4 Mausoleums," or other terminology to that effect. If the board
5 elects to divide the standards into two or more chapters, all
6 such rules shall be binding on licensees and others subject to
7 the jurisdiction of the board, but only the chapter containing
8 provisions appropriate for building codes shall be transmitted
9 to the Florida Building Commission ~~Board of Building Codes and~~
10 ~~Standards~~ pursuant to subsection (3). Such rules may be in the
11 form of standards for design and construction; methods,
12 materials, and specifications for construction; or other
13 mechanisms. Such rules shall encompass, at a minimum, the
14 following standards:

15 (a) No structure may be built or significantly altered
16 for use for interment, entombment, or inurnment purposes
17 unless constructed of such material and workmanship as will
18 ensure its durability and permanence, as well as the safety,
19 convenience, comfort, and health of the community in which it
20 is located, as dictated and determined at the time by modern
21 mausoleum construction and engineering science.

22 (b) Such structure must be so arranged that the
23 exterior of any vault, niche, or crypt may be readily examined
24 at any time by any person authorized by law to do so.

25 (c) Such structure must contain adequate provision for
26 drainage and ventilation.

27 (d) Such structure must be of fire-resistant
28 construction. Notwithstanding the requirements of s. 553.895
29 and chapter 633, any mausoleum or columbarium constructed of
30 noncombustible materials, as defined in the Standard Building
31 Code, shall not require a sprinkler system.

1 (e) Such structure must be resistant to hurricane and
2 other storm damage to the highest degree provided under
3 applicable building codes for buildings of that class.

4 (f) Suitable provisions must be made for securely and
5 permanently sealing each crypt with durable materials after
6 the interment or entombment of human remains, so that no
7 effluvia or odors may escape therefrom except as provided by
8 design and sanitary engineering standards. Panels for
9 permanent seals must be solid and constructed of materials of
10 sufficient weight, permanence, density, imperviousness, and
11 strength as to ensure their durability and continued
12 functioning. Permanent crypt sealing panels must be securely
13 installed and set in with high quality fire-resistant,
14 resilient, and durable materials after the interment or
15 entombment of human remains. The outer or exposed covering of
16 each crypt must be of a durable, permanent, fire-resistant
17 material; however, plastic, fiberglass, and wood are not
18 acceptable materials for such outer or exposed coverings.

19 (g) Interior and exterior fastenings for hangers,
20 clips, doors, and other objects must be of copper, copper-base
21 alloy, aluminum, or stainless steel of adequate gauges, or
22 other materials established by rule which provide equivalent
23 or better strength and durability, and must be properly
24 installed.

25 (3) The board shall transmit the rules as adopted
26 under subsection (2), hereinafter referred to as the
27 "mausoleum standards," to the Florida Building Commission
28 ~~Board of Building Codes and Standards~~, which shall initiate
29 rulemaking under chapter 120 to consider such mausoleum
30 standards. If such mausoleum standards are not deemed
31 acceptable, they shall be returned by the Florida Building

1 ~~Commission Board of Building Codes and Standards~~ to the board
2 with details of changes needed to make them acceptable. If
3 such mausoleum standards are acceptable, the Florida Building
4 ~~Commission Board of Building Codes and Standards~~ shall adopt a
5 rule designating the mausoleum standards as an approved
6 revision to the State Minimum Building Codes under part VII of
7 chapter 553. When so designated by the Florida Building
8 ~~Commission Board of Building Codes and Standards~~, such
9 mausoleum standards shall become a required element of the
10 State Minimum Building Codes under s. 553.73(2) and shall be
11 transmitted to each local enforcement agency, as defined in s.
12 553.71(5). Such local enforcement agency shall consider and
13 inspect for compliance with such mausoleum standards as if
14 they were part of the local building code, but shall have no
15 continuing duty to inspect after final approval of the
16 construction pursuant to the local building code. Any further
17 amendments to the mausoleum standards shall be accomplished by
18 the same procedure. Such designated mausoleum standards, as
19 from time to time amended, shall be a part of the State
20 Minimum Building Codes under s. 553.73 until the adoption and
21 effective date of a new statewide uniform minimum building
22 code, which may supersede the mausoleum standards as provided
23 by the law enacting the new statewide uniform minimum building
24 code.

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31

Reviser's note.--Amended to conform to the
redesignation of the Board of Building Codes
and Standards as the Florida Building
Commission by s. 41, ch. 98-287, Laws of
Florida.

1 Section 43. Subsection (12) of section 497.353,
2 Florida Statutes, is amended to read:

3 497.353 Owners to provide addresses; presumption of
4 abandonment; abandonment procedures; sale of abandoned unused
5 burial rights.--

6 (12) No burial rights reacquired pursuant to this
7 section by a cemetery may be included in determining available
8 inventory of burial spaces or lots in the evaluation of need
9 for new cemeteries pursuant to s. 497.201 ~~497.006~~.

10
11 Reviser's note.--Amended to conform to the
12 redesignation of s. 497.006 as s. 497.201 by s.
13 59, ch. 93-399, Laws of Florida.

14
15 Section 44. Paragraph (b) of subsection (1) of section
16 501.022, Florida Statutes, is amended to read:

17 501.022 Home solicitation sale; permit required.--

18 (1)

19 (b) The following are excluded from the operation of
20 this section:

21 1. Bona fide agents, business representatives, or
22 salespersons making calls or soliciting orders at the usual
23 place of business of a customer regarding products or services
24 for use in connection with the customer's business.

25 2. Solicitors, salespersons, or agents making a call
26 or business visit upon the express invitation, oral or
27 written, of an inhabitant of the premises or her or his agent.

28 3. Telephone solicitors, salespersons, or agents
29 making calls which involve transactions that are unsolicited
30 by the consumer and consummated by telephone and without any
31 other contact between the buyer and the seller or its

1 representative prior to delivery of the goods or performance
2 of the services.

3 4. Solicitors, salespersons, or agents conducting a
4 sale, lease, or rental of consumer goods or services by
5 sample, catalog, or brochure for future delivery.

6 5. Minors, as defined in s. 1.01(13)~~1.01(14)~~,
7 conducting home solicitation sales under the supervision of an
8 adult supervisor who holds a valid home solicitation sale
9 permit. Minors excluded from operation of this section must,
10 however, carry personal identification which includes their
11 full name, date of birth, residence address, and employer and
12 the name and permit number of their adult supervisor.

13 6. Those sellers or their representatives that are
14 currently regulated as to the sale of goods and services by
15 chapter 470, chapter 475, or chapter 497.

16 7. Solicitors, salespersons, or agents making calls or
17 soliciting orders on behalf of a religious, charitable,
18 scientific, educational, or veterans' institution or
19 organization holding a sales tax exemption certificate under
20 s. 212.08(7)(a).

21
22 Reviser's note.--Amended to conform to the
23 redesignation of s. 1.01(14) as s. 1.01(13)
24 necessitated by the repeal of s. 1.01(5) by s.
25 8, ch. 88-33, Laws of Florida.

26
27 Section 45. Subsection (2) of section 501.0575,
28 Florida Statutes, is amended to read:

29 501.0575 Weight-Loss Consumer Bill of Rights.--

30 (2) The copies of the Weight-Loss Consumer Bill of
31 Rights to be posted according to s. 501.0573(6) shall be

1 printed in ~~letters~~ at least 24-point boldfaced type on one
2 side of a sign. The palm-sized copies to be distributed
3 according to s. 501.0573(5) shall be in boldfaced type and
4 legible. Each weight-loss provider shall be responsible for
5 producing and printing appropriate copies of the Weight-Loss
6 Consumer Bill of Rights.

7

8 Reviser's note.--Amended to improve clarity.

9

10 Section 46. Subsection (3) of section 501.608, Florida
11 Statutes, is amended to read:

12 501.608 License or affidavit of exemption;
13 occupational license.--

14 (3) Failure to display a license or a copy of the
15 affidavit of exemption is sufficient grounds for the
16 department to issue an immediate cease and desist order, which
17 shall act as an immediate final order under s. 120.569(2)(n)
18 ~~120.569(2)(1)~~. The order may shall remain in effect until the
19 commercial telephone seller or a person claiming to be exempt
20 shows the authorities that he or she is licensed or exempt.
21 The department may order the business to cease operations and
22 shall order the phones to be shut off. Failure of a
23 salesperson to display a license may result in the salesperson
24 being summarily ordered by the department to leave the office
25 until he or she can produce a license for the department.

26

27 Reviser's note.--Amended to conform to the
28 redesignation of s. 120.569(2)(1) as s.
29 120.569(2)(n) by s. 4, ch. 98-200, Laws of
30 Florida.

31

1 Section 47. Paragraph (f) of subsection (2) of section
2 509.032, Florida Statutes, is amended to read:

3 509.032 Duties.--

4 (2) INSPECTION OF PREMISES.--

5 (f) In conducting inspections of establishments
6 licensed under this chapter, the division shall determine if
7 each coin-operated amusement machine that is operated on the
8 premises of a licensed establishment is properly registered
9 with the Department of Revenue. Each month the division shall
10 report to the Department of Revenue the sales tax registration
11 number of the operator of any licensed establishment that has
12 on location a coin-operated amusement machine and that does
13 not have an identifying certificate conspicuously displayed as
14 required by s. 212.05(1)(i)~~212.05(1)(j)~~.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of s. 212.05(1)(j) as s.

18 212.05(1)(i) necessitated by the repeal of s.
19 212.05(1)(g) by s. 20, ch. 97-94, Laws of
20 Florida.

21
22 Section 48. Subsection (2) of section 509.302, Florida
23 Statutes, is amended to read:

24 509.302 Director of education, personnel, employment
25 duties, compensation.--

26 (2) The director of education shall develop and
27 implement an educational program, designated the "Hospitality
28 Education Program," offered for the benefit of the entire
29 industry. This program may affiliate with Florida State
30 University, Florida International University, and the
31 University of Central Florida. The program may also affiliate

1 with any other member of the State University System or
2 Florida ~~State~~ Community College System, or with any privately
3 funded college or university, which offers a program of
4 hospitality administration and management. The primary goal
5 of this program is to instruct and train all individuals and
6 businesses licensed under this chapter, in cooperation with
7 recognized associations that represent the licensees, in the
8 application of state and federal laws and rules. Such programs
9 shall also include:

- 10 (a) Vocational training.
11 (b) Management training.
12 (c) Inservice continuing education programs.
13 (d) Awareness of food-recovery programs, as promoted
14 in s. 570.0725.
15 (e) Such other programs as may be deemed appropriate
16 by the director of the division, the advisory council, and the
17 director of education.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of the State Community College
21 System as the Florida Community College System
22 by s. 15, ch. 98-58, Laws of Florida.

23
24 Section 49. Subsection (6) of section 514.031, Florida
25 Statutes, is amended to read:

26 514.031 Permit necessary to operate public swimming
27 pool or bathing place.--It is unlawful for any person or
28 public body to operate or continue to operate any public
29 swimming pool or bathing place without a valid permit from the
30 department, such permit to be obtained in the following
31 manner:

1 (6) An owner or operator of a public swimming pool,
2 including, but not limited to, a spa, wading, or special
3 purpose pool, to which admittance is obtained by membership
4 for a fee shall post in a prominent location within the
5 facility the most recent pool inspection report issued by the
6 department pertaining to the health and safety conditions of
7 such facility. The report shall be legible and readily
8 accessible to members or potential members. The department
9 shall adopt rules to enforce this subsection ~~provision~~. A
10 portable pool may not be used as a public pool.

11
12 Reviser's note.--Amended to improve clarity and
13 facilitate correct interpretation. The word
14 "subsection" was inserted by s. 48, ch. 98-151,
15 Laws of Florida, but the previous existing
16 reference to "provision" was not deleted.

17
18 Section 50. Paragraph (b) of subsection (12) of
19 section 517.021, Florida Statutes, is amended to read:

20 517.021 Definitions.--When used in this chapter,
21 unless the context otherwise indicates, the following terms
22 have the following respective meanings:

23 (12)

24 (b) The term "investment adviser" does not include the
25 following:

26 1. Any licensed practicing attorney whose performance
27 of such services is solely incidental to the practice of her
28 or his profession;

29 2. Any licensed certified public accountant whose
30 performance of such services is solely incidental to the
31 practice of her or his profession;

1 3. Any bank authorized to do business in this state;

2 4. Any bank holding company as defined in the Bank
3 Holding Company Act of 1956, as amended, authorized to do
4 business in this state;

5 5. Any trust company having trust powers which it is
6 authorized to exercise in the state, which trust company
7 renders or performs services in a fiduciary capacity
8 incidental to the exercise of its trust powers;

9 6. Any person who renders investment advice
10 exclusively to insurance or investment companies;

11 7. Any person who does not hold herself or himself out
12 to the general public as an investment adviser and has no more
13 than 15 clients within 12 consecutive months in this state;

14 8. Any person whose transactions in this state are
15 limited to those transactions described in s. 222(d) of the
16 Investment Advisers Act of 1940. Those clients listed in
17 subparagraph 6.5 may not be included when determining the
18 number of clients of an investment adviser for purposes of s.
19 222(d) of the Investment Advisers Act of 1940; or

20 9. A federal covered adviser.

21

22 Reviser's note.--Amended to conform to the
23 redesignation of subparagraph 5. of s.
24 517.021(12)(b) as subparagraph 6. by s. 5, ch.
25 97-35, Laws of Florida.

26

27 Section 51. Subsection (3) of section 517.12, Florida
28 Statutes, is amended to read:

29 517.12 Registration of dealers, associated persons,
30 investment advisers, and branch offices.--

31

1 (3) Except as otherwise provided in s.
2 517.061(11)(a)4., (13), (16), (17), or (19)~~517.061(11)(a)4.,~~
3 ~~(13), (16), (17), or (18)~~, the registration requirements of
4 this section do not apply in a transaction exempted by s.
5 517.061(1)-(12), (14), and (15).

6
7 Reviser's note.--Amended to conform to the
8 redesignation of s. 517.061(18) as s.
9 517.061(19) by s. 2, ch. 96-338, Laws of
10 Florida.

11
12 Section 52. Paragraph (b) of subsection (17) of
13 section 539.001, Florida Statutes, is amended to read:

14 539.001 The Florida Pawnbroking Act.--

15 (17) CRIMINAL PENALTIES.--

16 (b) In addition to any other penalty, any person, who
17 willfully violates this section or who willfully makes a false
18 entry in any record specifically required by this section
19 commits a misdemeanor of the first degree, punishable as
20 provided in s. 775.082 or s. 775.083. Clerical or
21 recordkeeping errors, such as typographical errors or
22 scrivener's errors, regarding any document or record required
23 by this section do not constitute a willful violation of this
24 section, and are not subject to criminal penalties. Clerical
25 or recordkeeping errors are subject to the administrative
26 remedies, as provided in this act.

27
28 Reviser's note.--Amended to improve clarity and
29 facilitate correct interpretation.

30
31

1 Section 53. Subsection (1) of section 548.004, Florida
2 Statutes, is amended to read:

3 548.004 Executive director; duties, compensation,
4 administrative support.--

5 (1) The department shall employ an executive director
6 with the approval of the commission. The executive director
7 shall serve at the pleasure of the secretary. The executive
8 director ~~secretary~~ shall keep a record of all proceedings of
9 the commission; shall preserve all books, papers, and
10 documents pertaining to the business of the commission; shall
11 prepare any notices and papers required; shall appoint judges,
12 referees, and other officials as delegated by the commission
13 and pursuant to this chapter and rules of the commission; and
14 shall perform such other duties as the department or
15 commission directs. The executive director may issue
16 subpoenas and administer oaths.

17

18 Reviser's note.--Amended to conform to the
19 context of the section, improve clarity, and
20 facilitate correct interpretation.

21

22 Section 54. Subsection (2) of section 550.1625,
23 Florida Statutes, is amended to read:

24 550.1625 Dogracing; taxes.--

25 (2) A permitholder that conducts a dograce meet under
26 this chapter must pay the daily license fee, the admission
27 tax, the breaks tax, and the tax on pari-mutuel handle as
28 provided in s. 550.0951 and is subject to all penalties and
29 sanctions provided in s. 550.0951(6)~~550.0951(7)~~.

30

31

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Section
3 550.0951(7) does not exist, and subsection (6)
4 relates to penalties.

5
6 Section 55. Paragraph (b) of subsection (7) and
7 paragraph (b) of subsection (8) of section 550.2625, Florida
8 Statutes, are amended to read:

9 550.2625 Horseracing; minimum purse requirement,
10 Florida breeders' and owners' awards.--

11 (7)

12 (b) The division shall deposit these collections to
13 the credit of the Florida Quarter Horse Racing Promotion Trust
14 Fund in a special account to be known as the "Florida
15 Appaloosa Racing Promotion Fund." The Department of
16 Agriculture and Consumer Services shall administer the funds
17 and adopt suitable and reasonable rules for the administration
18 thereof. The moneys in the Florida Appaloosa Racing Promotion
19 Fund shall be allocated solely for supplementing and
20 augmenting purses and prizes and for the general promotion of
21 owning and breeding of racing Appaloosas in this state; and
22 such moneys may not be used to defray any expense of the
23 Department of Agriculture and Consumer Services in the
24 administration of this chapter, except that the moneys
25 generated by Appaloosa registration fees received pursuant to
26 s. 570.381 may be used as provided in paragraph (5)(b) ~~(4)(b)~~
27 of that section.

28 (8)

29 (b) The division shall deposit these collections to
30 the credit of the Florida Quarter Horse Racing Promotion Trust
31 Fund in a special account to be known as the "Florida Arabian

1 Horse Racing Promotion Fund." The Department of Agriculture
2 and Consumer Services shall administer the funds and adopt
3 suitable and reasonable rules for the administration thereof.
4 The moneys in the Florida Arabian Horse Racing Promotion Fund
5 shall be allocated solely for supplementing and augmenting
6 purses and prizes and for the general promotion of owning and
7 breeding of racing Arabian horses in this state; and such
8 moneys may not be used to defray any expense of the Department
9 of Agriculture and Consumer Services in the administration of
10 this chapter, except that the moneys generated by Arabian
11 horse registration fees received pursuant to s. 570.382 may be
12 used as provided in paragraph 5(b)~~(6)(b)~~ of that section.

13

14 Reviser's note.--Paragraph (7)(b) is amended to
15 improve clarity and facilitate correct
16 interpretation. Section 570.381(4)(b) does not
17 exist, and paragraph (5)(b) provides for use of
18 the registration fees. Paragraph (8)(b) is
19 amended to conform to the redesignation of s.
20 570.382(6)(b) as s. 570.382(5)(b) by s. 1, ch.
21 93-7, Laws of Florida.

22

23 Section 56. Subsection (4) of section 550.375, Florida
24 Statutes, is amended to read:

25 550.375 Operation of certain harness tracks.--

26 (4) The permitholder conducting a harness horse race
27 meet must pay the daily license fee, the admission tax, the
28 tax on breaks, and the tax on pari-mutuel handle provided in
29 s. 550.0951 and is subject to all penalties and sanctions
30 provided in s. 550.0951(6)~~550.0951(7)~~.

31

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Section
3 550.0951(7) does not exist, and subsection (6)
4 relates to penalties.

5
6 Section 57. Subsection (1) of section 553.06, Florida
7 Statutes, is amended to read:

8 553.06 State Plumbing Code.--

9 (1) The Florida Building Commission shall, in
10 accordance with the provisions of chapter 120 and ss.
11 553.70-553.895, adopt the Standard Plumbing Code, 1994
12 edition, as adopted at the October 1993 annual meeting of the
13 Southern Building Code Congress International, as the State
14 Plumbing Code which shall be the minimum requirements
15 statewide for all installations, repairs, and alterations to
16 plumbing. The commission ~~board~~ may, in accordance with the
17 requirements of chapter 120, adopt all or parts of updated or
18 revised editions of the State Plumbing Code to keep abreast of
19 latest technological advances in plumbing and installation
20 techniques. Local governments which have adopted the South
21 Florida, One and Two Family Dwelling or EPCOT Plumbing Codes
22 may continue their use provided the requirements contained
23 therein meet or exceed the requirements of the State Plumbing
24 Code. Provided, however, nothing in this section shall alter
25 or diminish the authority of the Department of Business and
26 Professional Regulation to conduct plan reviews, issue
27 variances, and adopt rules regarding sanitary facilities in
28 public lodging and public food service establishments pursuant
29 to chapter 509, providing that such actions do not conflict
30 with the requirements for public restrooms in s. 553.141.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of the Board of Building Codes
3 and Standards as the Florida Building
4 Commission by s. 41, ch. 98-287, Laws of
5 Florida.

6
7 Section 58. Subsection (4) of section 553.141, Florida
8 Statutes, is amended to read:

9 553.141 Public restrooms; ratio of facilities for men
10 and women; application; rules.--

11 (4) The Florida Building Commission ~~Board of Building~~
12 ~~Codes and Standards~~ shall adopt rules to administer this
13 section, pursuant to chapter 120.

14
15 Reviser's note.--Amended to conform to the
16 redesignation of the Board of Building Codes
17 and Standards as the Florida Building
18 Commission by s. 41, ch. 98-287, Laws of
19 Florida.

20
21 Section 59. Section 553.503, Florida Statutes, is
22 amended to read:

23 553.503 Adoption of guidelines.--Subject to the
24 exceptions in s. 553.504, the federal Americans with
25 Disabilities Act Accessibility Guidelines, as adopted by
26 reference in 28 C.F.R., part 36, subparts A and D, and Title
27 II of Pub. L. No. 101-336, are hereby adopted and incorporated
28 by reference as the law of this state. The guidelines shall
29 establish the minimum standards for the accessibility of
30 buildings and facilities built or altered within this state.
31 The 1997 Florida Accessibility Code for Building Construction

1 must be adopted by the Florida Building Commission ~~Board of~~
2 ~~Building Codes and Standards~~ in accordance with chapter 120.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of the Board of Building Codes
6 and Standards as the Florida Building
7 Commission by s. 41, ch. 98-287, Laws of
8 Florida.

9

10 Section 60. Section 553.506, Florida Statutes, is
11 amended to read:

12 553.506 Powers of the commission ~~board~~--In addition
13 to any other authority vested in the commission ~~board~~ by law,
14 the Florida Building Commission ~~Board of Building Codes and~~
15 ~~Standards~~, in implementing ss. 553.501-553.513, may, by rule,
16 adopt revised and updated versions of the Americans with
17 Disabilities Act Accessibility Guidelines in accordance with
18 chapter 120.

19

20 Reviser's note.--Amended to conform to the
21 redesignation of the Board of Building Codes
22 and Standards as the Florida Building
23 Commission by s. 41, ch. 98-287, Laws of
24 Florida.

25

26 Section 61. Subsections (1) and (3) of section
27 553.512, Florida Statutes, are amended to read:

28 553.512 Modifications and waivers; advisory council.--

29 (1) The Florida Building Commission ~~Board of Building~~
30 ~~Codes and Standards~~ shall provide by regulation criteria for
31 granting individual modifications of, or exceptions from, the

1 literal requirements of this part upon a determination of
2 unnecessary, unreasonable, or extreme hardship, provided such
3 waivers shall not violate federal accessibility laws and
4 regulations and shall be reviewed by the Handicapped
5 Accessibility Advisory Council consisting of the following
6 seven members, who shall be knowledgeable in the area of
7 handicapped accessibility. The Secretary of Community Affairs
8 shall appoint the following: a representative from the
9 Advocacy Center for Persons with Disabilities, Inc.; a
10 representative from the Division of Blind Services; a
11 representative from the Division of Vocational Rehabilitation;
12 a representative from a statewide organization representing
13 the physically handicapped; a representative from the hearing
14 impaired; a representative from the President, Florida Council
15 of Handicapped Organizations; and a representative of the
16 Paralyzed Veterans of America. The terms for the first three
17 council members appointed subsequent to October 1, 1991, shall
18 be for 4 years, the terms for the next two council members
19 appointed shall be for 3 years, and the terms for the next two
20 members shall be for 2 years. Thereafter, all council member
21 appointments shall be for terms of 4 years. No council member
22 shall serve more than two 4-year terms subsequent to October
23 1, 1991. Any member of the council may be replaced by the
24 secretary upon three unexcused absences. Upon application
25 made in the form provided, an individual waiver or
26 modification may be granted by the commission ~~board~~ so long as
27 such modification or waiver is not in conflict with more
28 stringent standards provided in another chapter.

29 (3) Meetings of the advisory council shall be held in
30 conjunction with the regular meetings of the commission ~~board~~.
31

1 Reviser's note.--Amended to conform to the
2 redesignation of the Board of Building Codes
3 and Standards as the Florida Building
4 Commission by s. 41, ch. 98-287, Laws of
5 Florida.

6
7 Section 62. Effective January 1, 2001, paragraph (b)
8 of subsection (1), paragraph (a) of subsection (4), and
9 subsection (5) of section 553.73, Florida Statutes, as amended
10 by section 40 of chapter 98-287, Laws of Florida, are amended
11 to read:

12 553.73 Florida Building Code.--

13 (1)

14 (b) The technical portions of the Florida
15 Accessibility Code for Building Construction shall be
16 contained in their ~~its~~ entirety in the Florida Building Code.
17 The civil rights portions and the technical portions of the
18 accessibility laws of this state shall remain as currently
19 provided by law. Any revision or amendments to the Florida
20 Accessibility Code for Building Construction pursuant to part
21 V shall be considered adopted by the commission as part of the
22 Florida Building Code. Neither the commission nor any local
23 government shall revise or amend any standard of the Florida
24 Accessibility Code for Building Construction except as
25 provided for in part V.

26 (4)(a) Local governments shall comply with applicable
27 standards for issuance of mandatory certificates of occupancy,
28 minimum types of inspections, and procedures for plans review
29 and inspections as established by the commission ~~board~~ by
30 rule. Any amendments to standards established by the Florida
31 Building Code pursuant to this paragraph shall be more

1 stringent than such standards and shall be transmitted to the
2 commission within 30 days after enactment. The local
3 government shall make such amendments available to the general
4 public in a usable format. The Department of Insurance is
5 responsible for establishing the standards and procedures
6 required in this paragraph for governmental entities with
7 respect to applying the Florida Fire Prevention Code and the
8 Life Safety Code.

9 (5) The commission, by rule adopted pursuant to ss.
10 120.536(1) and 120.54, shall update the Florida Building Code
11 every 3 years. Once initially adopted and subsequently
12 updated by the commission board, the Florida Building Code
13 shall be deemed adopted for use statewide without adoptions by
14 local government. When updating the Florida Building Code, the
15 commission shall consider changes made by the adopting entity
16 of any selected model code for any model code incorporated
17 into the Florida Building Code by the commission, the
18 commission's own interpretations, declaratory statements,
19 appellate decisions, and approved statewide and local
20 technical amendments.

21
22 Reviser's note.--Paragraph (1)(b) is amended to
23 improve clarity and facilitate correct
24 interpretation. Paragraph (4)(a) is amended to
25 conform to the existence of the Florida Fire
26 Prevention Code and the Life Safety Code.
27 Paragraph (4)(a) and subsection (5) are amended
28 to conform to the redesignation of the Board of
29 Building Codes and Standards as the Florida
30 Building Commission by s. 41, ch. 98-287, Laws
31 of Florida.

1 Section 63. Subsections (3) and (4) of section 553.74,
2 Florida Statutes, are amended to read:

3 553.74 Florida Building Commission.--

4 (3) Members of the commission ~~board~~ shall serve
5 without compensation, but shall be entitled to reimbursement
6 for per diem and travel expenses as provided by s. 112.061.

7 (4) Each appointed member is accountable to the
8 Governor for the proper performance of the duties of the
9 office. The Governor shall cause to be investigated any
10 complaint or unfavorable report received concerning an action
11 of the commission ~~board~~ or any member and shall take
12 appropriate action thereon. The Governor may remove from
13 office any appointed member for malfeasance, misfeasance,
14 neglect of duty, incompetence, permanent inability to perform
15 official duties, or pleading guilty or nolo contendere to, or
16 being found guilty of, a felony.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of the Board of Building Codes
20 and Standards as the Florida Building
21 Commission by s. 41, ch. 98-287, Laws of
22 Florida.

23
24 Section 64. Section 559.803, Florida Statutes, is
25 reenacted to read:

26 559.803 Disclosure statement.--At least 3 working days
27 prior to the time the purchaser signs a business opportunity
28 contract, or at least 3 working days prior to the receipt of
29 any consideration by the seller, whichever occurs first, the
30 seller must provide the prospective purchaser a written
31 document, the cover sheet of which is entitled in at least

1 12-point boldfaced capital letters "DISCLOSURES REQUIRED BY
2 FLORIDA LAW." Under this title shall appear the following
3 statement in at least 10-point type: "The State of Florida
4 has not reviewed and does not approve, recommend, endorse, or
5 sponsor any business opportunity. The information contained
6 in this disclosure has not been verified by the state. If you
7 have any questions about this investment, see an attorney
8 before you sign a contract or agreement." Nothing except the
9 title and required statement shall appear on the cover sheet.
10 Immediately following the cover sheet, the seller must provide
11 an index page that briefly lists the contents of the
12 disclosure document as required in this section and any pages
13 on which the prospective purchaser can find each required
14 disclosure. At the top of the index page, the following
15 statement must appear in at least 10-point type: "The State of
16 Florida requires sellers of business opportunities to disclose
17 certain information to prospective purchasers. This index is
18 provided to help you locate this information." If the index
19 contains other information not required by this section, the
20 seller shall place a designation beside each of the
21 disclosures required by this section and provide an
22 explanation of the designation at the end of the statement at
23 the top of the index page. The disclosure document shall
24 contain the following information:

25 (1) The name of the seller; whether the seller is
26 doing business as an individual, partnership, corporation, or
27 other business entity; the names under which the seller has
28 done business; and the name of any parent or affiliated
29 company that will engage in business transactions with the
30 purchasers or who takes responsibility for statements made by
31 the seller.

- 1 (2) The names, addresses, and titles of the seller's
2 officers, directors, trustees, general partners, general
3 managers, and principal executives and of any other persons
4 charged with the responsibility for the seller's business
5 activities relating to the sale of business opportunities.
- 6 (3) The length of time the seller has:
- 7 (a) Sold business opportunities; or
- 8 (b) Sold business opportunities involving the
9 products, equipment, supplies, or services currently being
10 offered to the purchaser.
- 11 (4) A full and detailed description of the actual
12 services that the business opportunity seller undertakes to
13 perform for the purchaser.
- 14 (5) A copy of a current (not older than 13 months)
15 financial statement of the seller, updated to reflect material
16 changes in the seller's financial condition.
- 17 (6) If training is promised by the seller, a complete
18 description of the training, the length of the training, and
19 the cost or incidental expenses of that training, which cost
20 or expense the purchaser will be required to incur.
- 21 (7) If the seller promises services to be performed in
22 connection with the placement of the equipment, product, or
23 supplies at a location, the full nature of those services as
24 well as the nature of the agreements to be made with the
25 owners or managers of the location where the purchaser's
26 equipment, product, or supplies will be placed.
- 27 (8) If the business opportunity seller is required to
28 secure a bond or establish a trust deposit pursuant to s.
29 559.807, either of the following statements:
- 30 (a) "As required by Florida law, the seller has
31 secured a bond issued by, a surety company authorized to

1 do business in this state. Before signing a contract to
2 purchase this business opportunity, you should confirm the
3 bond's status with the surety company."; or
4 (b) "As required by Florida law, the seller has
5 established a trust account or guaranteed letter of credit
6 ...(number of account)... with ...(name and address of bank or
7 savings institution).... Before signing a contract to
8 purchase this business opportunity, you should confirm with
9 the bank or savings institution the current status of the
10 trust account or guaranteed letter of credit."
11 (9) The following statement: "If the seller fails to
12 deliver the product, equipment, or supplies necessary to begin
13 substantial operation of the business within 45 days of the
14 delivery date stated in your contract, you may notify the
15 seller in writing and cancel your contract."
16 (10) If the seller makes any statement concerning
17 sales or earnings or a range of sales or earnings that may be
18 made through this business opportunity, a statement
19 disclosing:
20 (a) The total number of purchasers of business
21 opportunities involving the product, equipment, supplies, or
22 services being offered who have actually achieved sales of or
23 received earnings in the amount or range specified within 3
24 years prior to the date of the disclosure statement.
25 (b) The total number of purchasers of business
26 opportunities involving the product, equipment, supplies, or
27 services being offered within 3 years prior to the date of the
28 disclosure statement.
29 (11) A statement disclosing who, if any, of the
30 persons listed in subsections (1) and (2):
31

1 (a) Has, at any time during the previous 10 fiscal
2 years, regardless of adjudication, been convicted of, or found
3 guilty of, or pled guilty or nolo contendere to, or has been
4 incarcerated within the last 10 years as a result of having
5 previously been convicted of, or found guilty of, or pled
6 guilty or nolo contendere to, a felony or a crime involving
7 fraud, theft, larceny, violation of any franchise or business
8 opportunity law or unfair or deceptive practices law,
9 embezzlement, fraudulent conversion, misappropriation of
10 property, or restraint of trade.

11 (b) Has, at any time during the previous 7 fiscal
12 years, been held liable in a civil action resulting in a final
13 judgment or has settled out of court any civil action or is a
14 party to any civil action involving allegations of fraud
15 (including violation of any franchise or business opportunity
16 law or unfair or deceptive practices law), embezzlement,
17 fraudulent conversion, misappropriation of property, or
18 restraint of trade or any civil action which was brought by a
19 present or former franchisee or franchisees and which involves
20 or involved the franchise relationship. However, only
21 material individual civil actions need be so listed pursuant
22 to this paragraph, including any group of civil actions which,
23 irrespective of the materiality of any single such action, in
24 the aggregate is material.

25 (c) Is subject to any currently effective state or
26 federal agency or court injunctive or restrictive order, or
27 has been subject to any administrative action in which an
28 order by a governmental agency was rendered, or is a party to
29 a proceeding currently pending in which such order is sought,
30 relating to or affecting business opportunities activities or
31 the business opportunity seller-purchaser relationship or

1 involving fraud (including violation of any franchise or
2 business opportunity law or unfair or deceptive practices
3 law), embezzlement, fraudulent conversion, misappropriation of
4 property, or restraint of trade.

5
6 Such statement shall set forth the identity and location of
7 the court or agency; the date of conviction, judgment, or
8 decision; the penalty imposed; the damages assessed; the terms
9 of settlement or the terms of the order; and the date, nature,
10 and issuer of each such order or ruling. A business
11 opportunity seller may include a summary opinion of counsel as
12 to any pending litigation, but only if counsel's consent to
13 the use of such opinion is included in the disclosure
14 statement.

15 (12) A statement disclosing who, if any, of the
16 persons listed in subsections (1) and (2) at any time during
17 the previous 7 fiscal years has:

18 (a) Filed in bankruptcy.

19 (b) Been adjudged bankrupt.

20 (c) Been reorganized due to insolvency.

21 (d) Been a principal, director, executive officer, or
22 partner of any other person that has so filed or was so
23 adjudged or reorganized during or within 1 year after the
24 period that such person held such position in relation to such
25 other person. If so, the name and location of the person
26 having so filed or having been so adjudged or reorganized, the
27 date thereof, and any other material facts relating thereto
28 shall be set forth.

29 (13) A copy of the business opportunity contract which
30 the seller uses as a matter of course and which is to be
31 presented to the purchaser at closing.

1
2 Should any seller of business opportunities prepare a
3 disclosure statement pursuant to 16 C.F.R. ss. 436.1 et seq.,
4 a Trade Regulation Rule of the Federal Trade Commission
5 regarding Disclosure Requirements and Prohibitions Concerning
6 Franchising and Business Opportunity Ventures, the seller may
7 file that disclosure statement in lieu of the document
8 required pursuant to this section. Should the seller be
9 required pursuant to 16 C.F.R. to prepare any other documents
10 to be presented to the prospective purchaser, those documents
11 shall also be filed with the department.

12
13 Reviser's note.--Section 10, ch. 99-307, Laws
14 of Florida, purported to amend paragraph
15 (11)(a), but failed to republish the flush left
16 language at the end of subsection (11) and the
17 flush left language at the end of the section.
18 In the absence of affirmative evidence that the
19 Legislature intended to repeal this language,
20 the section is reenacted to confirm that the
21 omissions were not intended.

22
23 Section 65. Section 559.807, Florida Statutes, is
24 amended to read:

25 559.807 Bond or trust account required.--If the
26 business opportunity seller makes any representations set
27 forth in s. 559.801(1)(a)3.~~559.801(1)(c)~~, the seller must
28 either have obtained a surety bond issued by a surety company
29 authorized to do business in this state or have established a
30 trust account or a guaranteed letter of credit with a licensed
31 and insured bank or savings institution located in the state.

1 The amount of the bond, trust account, or guaranteed letter of
2 credit shall be an amount not less than \$50,000. The bond or
3 trust account shall be in the favor of the department. Any
4 person who is damaged by any violation of ss. 559.80-559.815,
5 or by the seller's breach of the contract for the business
6 opportunity sale or of any obligation arising therefrom, may
7 bring an action against the bond, trust account, or guaranteed
8 letter of credit to recover damages suffered; however, the
9 aggregate liability of the surety or trustee shall be only for
10 actual damages and in no event shall exceed the amount of the
11 bond, trust account, or guaranteed letter of credit.

12

13 Reviser's note.--Amended to conform to the
14 redesignation of s. 559.801(1)(c) as s.
15 559.801(1)(a)3. by s. 1, ch. 93-244, Laws of
16 Florida.

17

18 Section 66. Subsection (11) of section 560.129,
19 Florida Statutes, is amended to read:

20 560.129 Confidentiality.--

21 (11) The exemptions created pursuant to subsections
22 (1)-(10)~~(1)-(11)~~ for purposes of the Money Transmitters' Code
23 in this chapter, as created by chapter 94-238, Laws of
24 Florida, and chapter 94-354, Laws of Florida, are exempt from
25 the provisions of ss. 119.07(1) and 286.011 and s. 24(a) and
26 (b), Art. I of the State Constitution.

27

28 Reviser's note.--Amended to conform to the
29 redesignation of subsection (11) of s. 560.129
30 as subsection (10) necessitated by the deletion

31

1 of former subsection (9) by s. 345, ch. 96-406,
2 Laws of Florida.

3

4 Section 67. Section 561.1105, Florida Statutes, is
5 amended to read:

6 561.1105 Inspection of licensed premises;
7 coin-operated amusement machines.--In conducting inspections
8 of establishments licensed under the Beverage Law, the
9 division shall determine if each coin-operated amusement
10 machine that is operated on the licensed premises is properly
11 registered with the Department of Revenue. Each month, the
12 division shall report to the Department of Revenue the sales
13 tax registration number of the operator of any licensed
14 premises that has on location a coin-operated amusement
15 machine and that does not have an identifying certificate
16 conspicuously displayed as required by s. 212.05(1)(i)
17 ~~212.05(1)(j)~~.

18

19 Reviser's note.--Amended to conform to the
20 redesignation of s. 212.05(1)(j) as s.
21 212.05(1)(i) necessitated by the repeal of s.
22 212.05(1)(g) by s. 20, ch. 97-94, Laws of
23 Florida.

24

25 Section 68. Paragraph (a) of subsection (12) of
26 section 561.20, Florida Statutes, is amended to read:

27 561.20 Limitation upon number of licenses issued.--
28 (12)(a) In addition to any other licenses issued under
29 the provisions of this chapter, the division is authorized to
30 issue a special license to a person or to an organization for
31 the purpose of authorizing:

- 1 ~~1. A bulk transfer as described in chapter 676;~~
2 1.2. A sale pursuant to a levy and execution;
3 ~~2.3.~~ A sale by an insurance company in possession of
4 alcoholic beverages;
5 3.4. A bankruptcy sale;
6 4.5. A sale resulting from a license suspension or
7 revocation;
8 ~~5.6.~~ A sale of damaged goods by a common carrier;
9 6.7. A sale by a bona fide wine collector; or
10 ~~7.8.~~ A sale of packaged alcoholic beverages pursuant
11 to part V of chapter 679.

12
13 Reviser's note.--Amended to conform to the
14 repeal of chapter 676 by s. 3, ch. 93-77, Laws
15 of Florida.

16
17 Section 69. Section 567.07, Florida Statutes, is
18 reenacted to read:

19 567.07 Results of election.--

20 (1) If a majority of those legally voting at any
21 election under s. 567.01 cast their votes "Against Selling
22 Intoxicating Liquors, Wines, or Beer" on question number 1,
23 then no intoxicating liquors, wines, or beer shall be sold in
24 the county in which the election was held until otherwise
25 determined by an election, which shall not be held oftener
26 than once in every 2 years.

27 (2) If a majority of those legally voting at any such
28 election cast their votes "For Selling Intoxicating Liquors,
29 Wines, or Beer" on question number 1 and a majority of votes
30 legally cast on question number 2 be cast "For Sales by the
31 Package Only," then:

1 (a) No intoxicating liquors, wines, or beer shall be
2 sold in said county that are not contained in sealed
3 containers.

4 (b) No intoxicating liquors, wines, or beer shall be
5 consumed in said county on the premises where such
6 intoxicating liquors, wines, or beer are sold or on any other
7 premise under the control, either directly or indirectly, of
8 the licensee, until otherwise determined in an election, which
9 shall not be held oftener than once in every 2 years.

10 (c) After the expiration of 2 years, an election
11 pursuant to s. 567.01(2)(b) may be held to determine the sole
12 question of whether intoxicating liquors, wines, or beer may
13 be sold by the drink for consumption on premises. If a
14 majority of those legally voting cast their votes for selling
15 intoxicating liquors, wines, or beer by the drink for
16 consumption on premises, such alcoholic beverages may be sold
17 as otherwise provided by law in that county until otherwise
18 determined in an election, which shall not be held oftener
19 than once every 2 years. If a majority of those legally
20 voting cast their vote against the sale of intoxicating
21 liquors, wines, or beer by the drink for consumption on
22 premises, sales by the package only shall continue.

23 (3) In the event a majority of those legally voting in
24 any such election cast their vote "For Selling Intoxicating
25 Liquors, Wines, or Beer" on question number 1 and a majority
26 of the votes legally cast on question number 2 be not cast
27 "For Sales by the Package Only," then intoxicating liquors,
28 wines, or beer may be sold as otherwise provided by law in
29 said county until otherwise determined in an election, which
30 shall not be held oftener than once in every 2 years.

31

1 Reviser's note.--Section 3, ch. 99-380, Laws of
2 Florida, purported to amend s. 567.07, but
3 failed to republish subsection (3). In the
4 absence of affirmative evidence that the
5 Legislature intended to repeal subsection (3),
6 s. 567.07 is reenacted to confirm that the
7 omission was not intended.

8
9 Section 70. Section 570.1912, Florida Statutes, is
10 amended to read:

11 570.1912 Funding of Agricultural Emergency Eradication
12 Trust Fund.--~~There is hereby appropriated from the General~~
13 ~~Revenue Fund to the Agricultural Emergency Eradication Trust~~
14 ~~Fund of the Department of Agriculture and Consumer Services~~
15 ~~the sum of \$1,000,000 for fiscal year 1998-1999.~~In fiscal
16 year 1999-2000 and each year thereafter, there shall be
17 appropriated from the General Revenue Fund to the Agricultural
18 Emergency Eradication Trust Fund an amount equal to the
19 previous year's transfers into the trust fund from ss. 206.606
20 and 206.608.

21
22 Reviser's note.--Amended to delete a provision
23 that has served its purpose. The appropriation
24 to the Agricultural Emergency Eradication Trust
25 Fund was for the fiscal year 1998-1999.

26
27 Section 71. Paragraph (b) of subsection (1) of section
28 570.235, Florida Statutes, is amended to read:

29 570.235 Pest Exclusion Advisory Committee.--
30
31

1 (1) There is created within the department a Pest
2 Exclusion Advisory Committee. The advisory committee shall be
3 composed of 24 members.

4 (b) In addition, the committee shall be composed of
5 the following 7 members:

6 1. Two members representing and appointed by the
7 Animal and Plant Health Inspection Service, United States
8 Department of Agriculture.

9 2. One member representing and appointed by the
10 Florida Department of Health.

11 3. One member representing and appointed by the
12 Florida Department of Environmental Protection.

13 4. One member representing and appointed by the
14 Florida Fish and Wildlife Conservation ~~Game and Fresh Water~~
15 ~~Fish~~ Commission.

16 5. One member appointed by the Speaker of the House of
17 Representatives.

18 6. One member appointed by the President of the
19 Senate.

20
21 Reviser's note.--Amended to conform to the
22 redesignation of the Game and Fresh Water Fish
23 Commission as the Fish and Wildlife
24 Conservation Commission by s. 2, ch. 99-245,
25 Laws of Florida.

26
27 Section 72. Subsection (2) of section 578.28, Florida
28 Statutes, is amended to read:

29 578.28 Seed in hermetically sealed containers.--The
30 period of validity of germination tests is extended to the
31 following periods for seed packaged in hermetically sealed

1 containers, under conditions and label requirements set forth
2 in this section:

3 (2) CONDITIONS OF PACKAGING.--The following conditions
4 are considered as minimum:

5 (a) Hermetically sealed packages or containers.--A
6 container, to be acceptable under the provisions of this
7 section, shall not allow water vapor penetration through any
8 wall, including the wall seals, greater than 0.05 gram of
9 water per 24 hours per 100 square inches of surface at 100 °F.
10 with a relative humidity on one side of 90 percent and on the
11 other of 0 percent. Water vapor penetration (WVP) is measured
12 by the standards of the National Institute of Standards and
13 Technology as: gm H₂O/24 hr./100 sq. in./100 °F/90
14 percent RH V. 0 percent RH.

15 (b) Moisture of seed packaged.--The moisture of
16 agricultural or vegetable seed subject to the provisions of
17 this section shall be established by rule of the department.

18

19 ~~A tolerance of 1 percent is applicable to the maximum~~
20 ~~percentage of moisture listed above and the percentage of~~
21 ~~moisture found by an official test. The percentage of~~
22 ~~moisture shall be determined by the air oven method.~~

23

24 Reviser's note.--Amended to conform to the
25 deletion of the table listing moisture
26 percentages for specified seed by s. 27, ch.
27 92-143, Laws of Florida.

28

29 Section 73. Subsection (4) of section 585.74, Florida
30 Statutes, is amended to read:

31 585.74 Grant of inspection; fees.--

1 (4) Each grant of inspection shall be issued for a
2 3-year period. ~~Each person who possesses a grant of inspection~~
3 ~~from the department as of July 1, 1994, must apply before~~
4 ~~December 1, 1995, to renew the grant of inspection.~~The
5 department shall charge a fee not to exceed \$150 to defray the
6 cost of processing the grant of inspection.

7
8 Reviser's note.--Amended to delete language
9 that has served its purpose. The referenced
10 grant of inspection renewal period ended
11 December 1, 1995.

12
13 Section 74. Subsection (6) of section 585.91, Florida
14 Statutes, is amended to read:

15 585.91 Regulation of custom slaughterers and
16 processors; permits.--

17 (6) The department shall charge a fee not to exceed
18 \$75 to defray the cost of processing the permit. ~~Each person~~
19 ~~who possesses a custom slaughtering or processing permit as of~~
20 ~~July 1, 1994, must apply before December 1, 1996, to renew the~~
21 ~~permit.~~Each renewal of a custom slaughtering or processing
22 permit shall be issued for a period of 3 years.

23
24 Reviser's note.--Amended to delete language
25 that has served its purpose. The referenced
26 custom slaughtering or processing permit
27 renewal period ended December 1, 1996.

28
29 Section 75. Section 589.101, Florida Statutes, is
30 amended to read:

1 589.101 Blackwater River State Forest; lease of
2 board's interest in gas, oil, and other
3 minerals.--Notwithstanding the provisions of ss. 253.51-253.61
4 ~~253.51-253.58, 253.60, 253.61~~, the Division of Forestry is
5 hereby expressly granted the authority to lease its 25-percent
6 interest in oil, gas, and other minerals within the boundaries
7 of the Blackwater River State Forest; provided, however, that
8 grants shall be made only to the lessee or lessees holding the
9 75-percent interest in said minerals retained by the United
10 States in its conveyance to this state. The concurrence of
11 the Board of Trustees of the Internal Improvement Trust Fund
12 required by s. 589.10 shall not be necessary under the
13 provisions of this section.

14
15 Reviser's note.--Amended to conform to the
16 repeal of s. 253.58 by s. 2, ch. 89-358, Laws
17 of Florida.

18
19 Section 76. Paragraph (e) of subsection (7) of section
20 590.02, Florida Statutes, is amended to read:

21 590.02 Division powers, authority, and duties;
22 liability; building structures; Florida Center for Wildfire
23 and Forest Resources Management Training.--

24 (7) The division may organize, staff, equip, and
25 operate the Florida Center for Wildfire and Forest Resources
26 Management Training. The center shall serve as a site where
27 fire and forest resource managers can obtain current
28 knowledge, techniques, skills, and theory as they relate to
29 their respective disciplines.

30 (e) An advisory committee consisting of the following
31 individuals or their designees must review program curriculum,

1 course content, and scheduling: the Director of the Florida
2 Division of Forestry; the Assistant Director of the Florida
3 Division of Forestry; the Director of the School of Forest
4 Resources and Conservation of the University of Florida; the
5 Director of the Division of Recreation and Parks of the
6 Department of Environmental Protection; the Director of the
7 Division of the State Fire Marshal; the Director of the
8 Florida Chapter of The Nature Conservancy; the Executive Vice
9 President of the Florida Forestry Association; the President
10 of the Florida Farm Bureau Federation; the Executive Director
11 of the Florida Fish and Wildlife Conservation ~~Game and Fresh~~
12 ~~Water Fish~~ Commission; the Executive Director of a Water
13 Management District as appointed by the Commissioner of
14 Agriculture; the Supervisor of the National Forests in
15 Florida; the President of the Florida Fire Chief's
16 Association; and the Executive Director of the Tall Timbers
17 Research Station.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of the Game and Fresh Water Fish
21 Commission as the Fish and Wildlife
22 Conservation Commission by s. 2, ch. 99-245,
23 Laws of Florida.

24
25 Section 77. Paragraph (a) of subsection (2) of section
26 593.111, Florida Statutes, is amended to read:

27 593.111 Eligibility for certification of cotton
28 growers' organization.--

29 (2)(a) The terms of office of the board members shall
30 be for 3 years or until their successors are duly appointed

31

1 and qualified. ~~The terms of office of members of the first~~
2 ~~board shall date from November 1, 1987.~~

3
4 Reviser's note.--Amended to delete language
5 that has served its purpose.

6
7 Section 78. Paragraph (c) of subsection (2) of section
8 601.04, Florida Statutes, is amended to read:

9 601.04 Florida Citrus Commission; creation and
10 membership.--

11 (2)

12 (c) ~~Each member of the commission in office on October~~
13 ~~1, 1990, shall continue in office until the expiration of her~~
14 ~~or his current term.~~When making an appointment to the
15 commission ~~on or after October 1, 1990,~~ the Governor shall
16 announce the district and classification of the person
17 appointed.

18
19 Reviser's note.--Amended to delete language
20 that has served its purpose.

21
22 Section 79. Subsection (2) of section 601.155, Florida
23 Statutes, is amended to read:

24 601.155 Equalizing excise tax; credit; exemption.--

25 (2) Upon the exercise of any privilege described in
26 subsection (1), the excise tax levied by this section shall be
27 at the same rate per box of oranges or grapefruit utilized in
28 the initial production of the processed citrus products so
29 handled as that imposed, at the time of exercise of the
30 taxable privilege, by s. 601.15 ~~plus that imposed, if any, by~~
31 ~~s. 601.156~~ per box of oranges.

1 Reviser's note.--Amended to conform to the
2 repeal of s. 601.156 by s. 2, ch. 95-358, Laws
3 of Florida.
4

5 Section 80. Paragraph (j) of subsection (3) of section
6 616.242, Florida Statutes, is amended to read:

7 616.242 Safety standards for amusement rides.--

8 (3) DEFINITIONS.--As used in this section, the term:

9 (j) "Nondestructive testing" is the development and
10 application of technical methods, including, but not limited
11 to, radiographic, magnetic particle, ultrasonic, liquid
12 penetrant, electromagnetic, neutron radiographic, acoustic
13 emission, visual, and leak testing to examine materials or
14 components in ways that do not impair their ~~the~~ future
15 usefulness and serviceability in order to detect, locate,
16 measure, and evaluate discontinuities, defects, and other
17 imperfections; to assess integrity, properties, and
18 composition; and to measure geometrical characters.
19

20 Reviser's note.--Amended to improve clarity and
21 facilitate correct interpretation.
22

23 Section 81. Subsection (2) of section 626.8414,
24 Florida Statutes, is amended to read:

25 626.8414 Qualifications for examination.--The
26 department must authorize any natural person to take the
27 examination for the issuance of a license as a title insurance
28 agent if the person meets all of the following qualifications:

29 (2) The applicant must be a bona fide resident of this
30 state. A person meets the residency requirement of this
31 subsection ~~paragraph~~, notwithstanding the existence at the

1 time of application for license of a license in the
2 applicant's name on the records of another state as a resident
3 licensee of such other state, if the applicant furnishes a
4 letter of clearance satisfactory to the department that the
5 resident licenses have been canceled or changed to a
6 nonresident basis and that the applicant is in good standing.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of subunits necessitated by the
10 repeal of former subsection (2) by s. 65, ch.
11 99-5, Laws of Florida.

12
13 Section 82. Subsection (4) of section 627.651, Florida
14 Statutes, is amended to read:

15 627.651 Group contracts and plans of self-insurance
16 must meet group requirements.--

17 (4) This section does not apply to any plan which is
18 established or maintained by an individual employer in
19 accordance with the Employee Retirement Income Security Act of
20 1974, Pub. L. No. 93-406, or to a multiple-employer welfare
21 arrangement as defined in s. 624.437(1), except that a
22 multiple-employer welfare arrangement shall comply with ss.
23 627.419, 627.657, 627.6575, ~~627.6576~~, 627.6578, 627.6579,
24 627.6612, 627.66121, 627.66122, 627.6615, 627.6616, and
25 627.662(6). This subsection does not allow an authorized
26 insurer to issue a group health insurance policy or
27 certificate which does not comply with this part.

28
29 Reviser's note.--Amended to conform to the
30 repeal of s. 627.6576 by s. 33, ch. 97-179,
31 Laws of Florida.

1 Section 83. Section 631.0515, Florida Statutes, is
2 amended to read:

3 631.0515 Appointment of receiver; insurance holding
4 company.--A delinquency proceeding pursuant to this chapter
5 constitutes the sole and exclusive method of dissolving,
6 liquidating, rehabilitating, reorganizing, conserving, or
7 appointing a receiver of a Florida corporation which is not
8 insolvent as defined by s. 607.01401(16)~~607.01401(15)~~; which
9 through its shareholders, board of directors, or governing
10 body is deadlocked in the management of its affairs; and which
11 directly or indirectly owns all of the stock of a Florida
12 domestic insurer. The department may petition for an order
13 directing it to rehabilitate such corporation if the interests
14 of policyholders or the public will be harmed as a result of
15 the deadlock. The department shall use due diligence to
16 resolve the deadlock. Whether or not the department petitions
17 for an order, the circuit court shall not have jurisdiction
18 pursuant to s. 607.271, s. 607.274, or s. 607.277 to dissolve,
19 liquidate, or appoint receivers with respect to, a Florida
20 corporation which directly or indirectly owns all of the stock
21 of a Florida domestic insurer and which is not insolvent as
22 defined by s. 607.01401(16)~~607.01401(15)~~.

23
24 Reviser's note.--Amended to conform to the
25 redesignation of subunits of s. 607.01401 by s.
26 18, ch. 99-218, Laws of Florida.

27
28 Section 84. Subsection (3) of section 631.911, Florida
29 Statutes, is amended to read:

1 631.911 Creation of the Florida Workers' Compensation
2 Insurance Guaranty Association, Incorporated; merger; effect
3 of merger.--

4 (3) The corporation shall perform its functions under
5 a plan of operation and shall exercise its powers through a
6 board of directors. Upon adoption of a plan of operation for
7 the corporation, the board shall manage the Florida Workers'
8 Compensation Insurance Guaranty Association Account.

9
10 Reviser's note.--Amended to conform to the full
11 title of the account pursuant to s. 631.928.

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