

By the Committee on Business Regulation & Consumer Affairs
and Representatives Ogles, Turnbull, Brown, Sorensen, J.
Miller, Cantens, Futch, Crist and Greenstein

1 A bill to be entitled

2 An act relating to consumer protection;

3 amending s. 501.017, F.S.; requiring certain

4 health studio contract refunds to be issued

5 within a time certain; amending s. 559.803,

6 F.S.; specifying additional information

7 required in certain business opportunity

8 contract disclosure statements; amending s.

9 559.807, F.S.; revising application of

10 requirements for certain securities relating to

11 selling business opportunities; amending s.

12 559.904, F.S.; revising certain requirements

13 for motor vehicle repair shop registrations;

14 amending s. 559.905, F.S.; providing additional

15 estimated cost of repair requirements for

16 written repair estimates; amending s. 559.9221,

17 F.S.; revising Motor Vehicle Repair Advisory

18 Council membership requirements; amending ss.

19 325.202 and 325.212, F.S., to conform;

20 repealing s. 559.903(5), F.S., relating to a

21 definition of minor repair service; providing

22 an effective date.

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

26 Section 1. Paragraphs (b) and (d) of subsection (1) of

27 section 501.017, Florida Statutes, is amended to read:

28 501.017 Health studios; contracts.--

29 (1) Every contract for the sale of future health

30 studio services which is paid for in advance or which the

31 buyer agrees to pay for in future installment payments shall

1 be in writing and shall contain, contractual provisions to the
2 contrary notwithstanding, in immediate proximity to the space
3 reserved in the contract for the signature of the buyer, and
4 in 10-point boldfaced type, language substantially equivalent
5 to the following:

6 (b)1. A provision for the cancellation and refund of
7 the contract if the contracting business location of the
8 health studio goes out of business, or moves its facilities
9 more than 5 driving miles from the business location
10 designated in such contract and fails to provide, within 30
11 days, a facility of equal quality located within 5 driving
12 miles of the business location designated in such contract at
13 no additional cost to the buyer.

14 2. A provision that notice of intent to cancel by the
15 buyer shall be given in writing to the health studio. Such a
16 notice of cancellation from the consumer shall also terminate
17 automatically the consumer's obligation to any entity to whom
18 the health studio has subrogated or assigned the consumer's
19 contract. If the health studio wishes to enforce such contract
20 after receipt of such showing, it may request the department
21 to determine the sufficiency of the showing.

22 3. A provision that if the department determines that
23 a refund is due the buyer, the refund shall be an amount
24 computed by dividing the contract price by the number of weeks
25 in the contract term and multiplying the result by the number
26 of weeks remaining in the contract term. The business
27 location of a health studio shall not be deemed out of
28 business when temporarily closed for repair and renovation of
29 the premises:

30 a. Upon sale, for not more than 14 consecutive days;
31 or

1 b. During ownership, for not more than 7 consecutive
2 days and not more than two periods of 7 consecutive days in
3 any calendar year.

4
5 A refund shall be issued within 30 days after receipt of the
6 notice of cancellation made pursuant to this subsection.

7 (d) A provision for the cancellation of the contract
8 if the buyer dies or becomes physically unable to avail
9 himself or herself of a substantial portion of those services
10 which he or she used from the commencement of the contract
11 until the time of disability, with refund of funds paid or
12 accepted in payment of the contract in an amount computed by
13 dividing the contract price by the number of weeks in the
14 contract term and multiplying the result by the number of
15 weeks remaining in the contract term. The contract may
16 require a buyer or the buyer's estate seeking relief under
17 this paragraph to provide proof of disability or death. A
18 physical disability sufficient to warrant cancellation of the
19 contract by the buyer shall be established if the buyer
20 furnishes to the health studio a certification of such
21 disability by a physician licensed under chapter 458, chapter
22 459, chapter 460, or chapter 461 to the extent the diagnosis
23 or treatment of the disability is within the physician's scope
24 of practice. A refund shall be issued within 30 days after
25 receipt of the notice of cancellation made pursuant to this
26 subsection.

27 Section 2. Subsections (11), (12), and (13) of section
28 559.803, Florida Statutes, are renumbered as subsections (12),
29 (13), and (14), respectively, and new subsection (11) is added
30 to said section, to read:

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1 559.803 Disclosure statement.--At least 3 working days
2 prior to the time the purchaser signs a business opportunity
3 contract, or at least 3 working days prior to the receipt of
4 any consideration by the seller, whichever occurs first, the
5 seller must provide the prospective purchaser a written
6 document, the cover sheet of which is entitled in at least
7 12-point boldfaced capital letters "DISCLOSURES REQUIRED BY
8 FLORIDA LAW." Under this title shall appear the following
9 statement in at least 10-point type: "The State of Florida
10 has not reviewed and does not approve, recommend, endorse, or
11 sponsor any business opportunity. The information contained
12 in this disclosure has not been verified by the state. If you
13 have any questions about this investment, see an attorney
14 before you sign a contract or agreement." Nothing except the
15 title and required statement shall appear on the cover sheet.
16 Immediately following the cover sheet, the seller must provide
17 an index page that briefly lists the contents of the
18 disclosure document as required in this section and any pages
19 on which the prospective purchaser can find each required
20 disclosure. At the top of the index page, the following
21 statement must appear in at least 10-point type: "The State of
22 Florida requires sellers of business opportunities to disclose
23 certain information to prospective purchasers. This index is
24 provided to help you locate this information." If the index
25 contains other information not required by this section, the
26 seller shall place a designation beside each of the
27 disclosures required by this section and provide an
28 explanation of the designation at the end of the statement at
29 the top of the index page. The disclosure document shall
30 contain the following information:
31

1 (11)(a) The total number of persons who purchased the
2 business opportunity being offered by the seller within the
3 past 3 years.

4 (b) The names, addresses, and telephone numbers of the
5 10 persons who previously purchased the business opportunity
6 from the seller and who are the most geographically close to
7 the potential purchaser.

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

19 Section 3. Section 559.807, Florida Statutes, is
20 amended to read:

21 559.807 Bond or other security ~~trust account~~
22 required.--

23 (1) If the business opportunity seller makes any
24 representations set forth in s. 559.801(1)(a)3., the seller
25 must either have obtained a surety bond issued by a surety
26 company authorized to do business in this state or have
27 established a certificate of deposit ~~trust account~~ or a
28 guaranteed letter of credit with a licensed and insured bank
29 or savings institution located in the state. The amount of
30 the bond, certificate of deposit ~~trust account~~, or guaranteed
31 letter of credit shall be an amount not less than \$50,000.

1 (2) The bond, certificate of deposit, or guaranteed
2 letter of credit trust account shall be in the favor of the
3 department for the use and benefit of any person who is
4 injured by the fraud, misrepresentation, ~~damaged by any~~
5 violation of ss. 559.80-559.815, or by the seller's breach of
6 the contract, financial failure, or violation of any provision
7 of this part by the seller. Such liability may be enforced by
8 filing an action at law in a court of competent jurisdiction
9 without precluding enforcement in an administrative action
10 pursuant to chapter 120. However, the bond, certificate of
11 deposit, or guaranteed letter of credit shall be amenable and
12 enforceable only by and through administrative proceedings
13 before the department. A money judgment resulting from an
14 action at law, less any award for costs and attorney's fees,
15 shall be prima facie evidence sufficient to establish the
16 value of the claim in an administrative action. It is the
17 intent of the Legislature that such bond, certificate of
18 deposit, or guaranteed letter of credit shall be applicable
19 and liable only for payment of claims duly adjudicated by
20 order of the department. The bond, certificate of deposit, or
21 guaranteed letter of credit shall be open to successive claims
22 but for the business opportunity sale or of any obligation
23 arising therefrom, may bring an action against the bond, trust
24 account, or guaranteed letter of credit to recover damages
25 suffered; however, the aggregate amount may not liability of
26 the surety or trustee shall be only for actual damages and in
27 no event shall exceed the amount of the bond, certificate of
28 deposit trust account, or guaranteed letter of credit.

29 Section 4. Subsections (3), (4), (5), and (6) of
30 section 559.904, Florida Statutes, are amended to read:

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1 559.904 Motor vehicle repair shop registration;
2 application; exemption.--

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

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

7 (a)~~(b)~~ If the place of business has 1 to 5 employees:
8 \$50.

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

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

13 (4) Each application for registration must be
14 accompanied by copies of the applicant's estimate and invoice
15 forms. Such forms must comply with applicable provisions of
16 this act before a registration may be issued.

17 (5)~~(4)~~ No annual registration fee is required for any
18 motor vehicle repair shop which has a local municipal or
19 county license issued pursuant to an ordinance containing
20 standards which the department determines are at least equal
21 to the requirements of this part, or for any motor vehicle
22 dealer licensed pursuant to chapter 320.

23 (6)~~(5)~~ The department shall issue to each applicant a
24 registration certificate in the form and size as prescribed by
25 the department in accordance with s. 120.60. In the case of
26 an applicant with more than one place of business, the
27 department shall issue a registration certificate for each
28 place of business. The certificate must show at least the name
29 and address of the motor vehicle repair shop and the
30 registration number for that place of business. In the case of
31 a mobile motor vehicle repair shop, the certificate must show

1 the home address of the owner, if different from the business
2 address.

3 ~~(6) Any affidavit of exemption proof of filing~~
4 ~~certificate, issued by the department prior to July 1, 1997,~~
5 ~~to a motor vehicle repair shop conducting only minor repair~~
6 ~~services shall be valid until its expiration.~~

7 Section 5. Paragraph (h) of subsection (1) of section
8 559.905, Florida Statutes, is amended to read:

9 559.905 Written motor vehicle repair estimate and
10 disclosure statement required.--

11 (1) When any customer requests a motor vehicle repair
12 shop to perform repair work on a motor vehicle, the cost of
13 which repair work will exceed \$100 to the customer, the shop
14 shall prepare a written repair estimate, which is a form
15 setting forth the estimated cost of repair work, including
16 diagnostic work, before effecting any diagnostic work or
17 repair. The written repair estimate shall also include the
18 following items:

19 (h) The estimated cost of repair which shall include
20 any charge for shop supply or for hazardous or other waste
21 removal and if a charge is included, the estimate shall
22 include the following statement:

23 "This charge represents costs and profits to the motor
24 vehicle repair facility for miscellaneous shop supplies or
25 waste disposal."

26 If a charge is mandated by state or federal law, the
27 estimate shall contain a statement identifying the law and the
28 specific amount charged under the law.

29 Section 6. Subsection (1) of section 559.9221, Florida
30 Statutes, is amended to read:

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1 559.9221 Motor Vehicle Repair Advisory Council.--The
2 Motor Vehicle Repair Advisory Council is created to advise and
3 assist the department in carrying out this part.

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

6 (a) Eight industry members of the council must be
7 chosen from individuals already engaged in the motor vehicle
8 repair business who are eligible to be registered under this
9 part. ~~Such members must become registered by October 1, 1993.~~

10 ~~Thereafter,~~The professional members of this council must be
11 licensed under this part. The commissioner shall select one
12 industry member from each of the following categories:

13 1. Independent automotive mechanics shops.

14 2. Franchise or company-owned automotive mechanics
15 shops.

16 3. Independent automotive collision shops.

17 4. Franchise or company-owned automotive collision
18 shops.

19 5. Independent tire dealer.

20 6. Franchise or company-owned tire dealer.

21 7. Independent motor vehicle dealer licensed under s.
22 320.27.

23 8. Franchise motor vehicle dealer licensed under s.
24 320.27.

25 (b) One member of the council may ~~must~~ be chosen from
26 persons already engaged ~~solely~~ in motor vehicle ~~minor~~ repair
27 service.

28 (c) Two consumer members of the council must be
29 residents of this state and must not be connected with the
30 motor vehicle repair business.

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1 ~~(d) Within 30 days after July 1, 1993, the~~
2 ~~commissioner shall appoint one consumer member and four~~
3 ~~industry members for terms of 2 years and one consumer member,~~
4 ~~one minor repair shop member, and four industry members for~~
5 ~~terms of 4 years.~~ As terms of the members expire, the
6 commissioner shall appoint successors for terms of 4 years.
7 Members shall serve from the time of their appointment until
8 their successors are appointed.

9 Section 7. Subsection (12) of section 325.202, Florida
10 Statutes, is amended to read:

11 325.202 Definitions.--As used in this act, the term:

12 (12) "Reinspection facility" means any motor vehicle
13 repair shop as defined in s. 559.903~~(7)~~which has been
14 licensed by the department pursuant to the provisions of s.
15 325.212.

16 Section 8. Subsection (2) of section 325.212, Florida
17 Statutes, is amended to read:

18 325.212 Reinspections; reinspection facilities; rules;
19 minority business participation.--

20 (2) Any motor vehicle repair shop, as defined in s.
21 559.903~~(7)~~, may apply to the department, on a form approved by
22 the department, to be licensed as a reinspection facility to
23 reinspect motor vehicles which fail to pass inspections
24 required by this act.

25 Section 9. Subsection (5) of section 559.903, Florida
26 Statutes, is repealed.

27 Section 10. This act shall take effect October 1,
28 2000.

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HOUSE SUMMARY

Revises various consumer protection provisions relating to health studio contracts, sales of business opportunities, motor vehicle repair shop registrations and repair estimates, and Motor Vehicle Repair Advisory Council membership requirements. See bill for details.