

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senator Garcia

310-2281-04

1 A bill to be entitled
2 An act relating to consumer services; creating
3 a consumer education pilot program within the
4 Department of Agriculture and Consumer Services
5 to educate secondary and postsecondary students
6 about issues concerning consumer protection;
7 providing for the administration, purpose, and
8 methods of implementing the pilot program;
9 requiring a report to the Legislature and
10 recommendations with respect to continuing the
11 pilot program; requiring the Department of
12 Agriculture and Consumer Services to prepare a
13 report and submit recommendations to the
14 Governor and Legislature concerning the state's
15 "no sales solicitation calls" listing;
16 prescribing items to be included as part of the
17 report; amending s. 501.059, F.S.; redefining
18 the term "telephonic sales call" to provide
19 that the term applies to sales of goods or
20 services; redefining the term "consumer goods
21 or services" to remove the term "consumer" and
22 include property used for business purposes;
23 redefining the term "unsolicited telephonic
24 sales call" to replace the word person with
25 consumer; redefining the term "consumer" to
26 reflect the statutory definition of person;
27 redefining the term "merchant" to include the
28 offering of goods and services; requiring a
29 telephone solicitor to identify himself or
30 herself when calling a business; adding a
31 business to those who may subscribe to the "no

1 sales solicitation calls" listing of the
2 Department of Agriculture and Consumer
3 Services; adding "business" to those who may
4 not be called if listed in the department's
5 published quarterly listing; adding "business"
6 to those whose numbers must be screened out if
7 the number is on the department's "no sales
8 solicitation calls" listing and a telephone
9 solicitor or person intends to sell consumer
10 information containing that number; amending s.
11 501.143, F.S.; authorizing increased
12 administrative fines and civil penalties for
13 certain violations under the Dance Studio Act
14 against a senior citizen or handicapped person;
15 amending s. 525.09, F.S.; revising reporting
16 requirements related to remittance of petroleum
17 fuel inspection taxes; amending s. 539.001,
18 F.S.; authorizing increased administrative
19 fines and civil penalties for violations under
20 the Florida Pawnbroking Act against a senior
21 citizen or handicapped person; amending s.
22 559.801, F.S.; redefining the term "business
23 opportunity" for the purposes of regulating the
24 sale or lease of business opportunities;
25 amending s. 559.920, F.S.; redefining actions
26 by motor vehicle repair shops or employees
27 which are unlawful; amending s. 559.921, F.S.;
28 authorizing increased administrative fines and
29 civil penalties for certain violations by a
30 motor vehicle repair shop against a senior
31 citizen or handicapped person; amending s.

1 559.928, F.S.; revising information to be
2 submitted for registration as a seller of
3 travel and information submitted by independent
4 agents; amending s. 559.934, F.S.; specifying
5 that violations of the Florida Sellers of
6 Travel Act are violations of the Florida
7 Deceptive and Unfair Trade Practices Act;
8 amending s. 570.544, F.S.; requiring the
9 Division of Consumer Services of the Department
10 of Agriculture and Consumer Services to report
11 and offer recommendations to the Commissioner
12 of Agriculture for submission to the
13 Legislature relating to consumer complaints
14 against businesses not regulated by certain
15 state agencies; amending s. 616.242, F.S.;
16 revising conditions under which an amusement
17 ride must be inspected by the Department of
18 Agriculture and Consumer Services; revising
19 schedules for such inspections; amending s.
20 817.568, F.S.; including a deceased individual
21 within the definition of the term "individual"
22 for purposes of provisions prohibiting the
23 unlawful use of personal identification
24 information; prescribing criminal offenses and
25 providing penalties for using personal
26 information of a deceased individual without
27 permission; including the estate of an
28 individual within the definition of the term
29 "victim" for purposes of court-ordered
30 restitution; conforming changes relating to the
31 location where consent to use personal

1 information is given; conforming changes
2 relating to venue for prosecutions and trials
3 governing criminal use of personal
4 identification information; amending s.
5 849.094, F.S.; redefining the term "operator"
6 for purposes of the regulation of game
7 promotions; increasing certain filing fees for
8 operators of game promotions; revising notice
9 requirements and filing deadlines for game
10 promotions; reenacting s. 921.0022(3)(d), (e),
11 (h), and (i), F.S., relating to the offense
12 severity ranking chart of the Criminal
13 Punishment Code, to incorporate the amendment
14 to s. 817.568, F.S., in references thereto;
15 prohibiting the marketing and distribution of
16 health-related discount cards under certain
17 conditions; requiring a person who markets or
18 distributes such cards to register with the
19 Department of Financial Services; providing an
20 annual registration fee; requiring designation
21 of an agent for service of process; providing
22 for service of process with the Secretary of
23 State; providing criminal penalties and other
24 remedies; authorizing the Department of
25 Financial Services to adopt rules; providing
26 appropriations; authorizing
27 full-time-equivalent positions within the
28 Department of Agriculture and Consumer
29 Services; providing effective dates.

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

1 Section 1. Consumer education pilot program.--
2 (1) The Department of Agriculture and Consumer
3 Services shall develop and implement during the 2004-2005
4 fiscal year a pilot program to educate secondary and
5 postsecondary students about consumer protection issues.
6 (a) The purpose of the pilot program shall be to
7 assist students in developing skills to make informed choices
8 as consumers, as well as in developing an understanding of
9 their rights and responsibilities as consumers.
10 (b) The pilot program may address topics including,
11 but not limited to:
12 1. Purchasing an automobile.
13 2. Credit cards and other consumer debt.
14 3. Landlord and tenant relations.
15 4. Health studios.
16 5. Home employment opportunities.
17 6. Identity theft.
18 7. Credit reporting and scoring.
19 (c) The pilot program shall be implemented in at least
20 four different regions of the state.
21 (d) Methods to implement the pilot program may
22 include, but are not limited to:
23 1. School site visits.
24 2. Public service announcements.
25 3. Contests in which students participate.
26 4. Seminars or similar training sessions.
27 5. Provision of information using Internet-based
28 applications.
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1 The department is encouraged to use Internet-based
2 applications to maximize the number of students who may
3 participate in the pilot program.

4 (e) The department may collaborate with other state
5 agencies; local government agencies; educational institutions;
6 or private, not-for-profit consumer organizations to implement
7 the pilot program.

8 (2) By December 1, 2005, the Department of Agriculture
9 and Consumer Services shall report to the President of the
10 Senate and the Speaker of the House of Representatives on the
11 activities conducted under the pilot program. The report shall
12 include a recommendation on whether to continue the pilot
13 program.

14 Section 2. The Department of Agriculture and Consumer
15 Services shall prepare a report that evaluates the operation
16 of the state's "no sales solicitation calls" listing,
17 established under section 501.059, Florida Statutes, during
18 the period from November 1, 2003, to November 1, 2004, and
19 assesses the continued viability of the state listing as it
20 has been affected by, among other factors, the federal
21 Do-Not-Call program established through rules of the Federal
22 Trade Commission and the Federal Communications Commission
23 published at 68 Federal Register 4580 and 68 Federal Register
24 44144. The department shall submit the report to the Governor,
25 the President of the Senate, and the Speaker of the House of
26 Representatives by December 1, 2004.

27 (1) The report must include, at a minimum, the
28 following information, with comparable data for the same
29 period during the prior year:

30 (a) The number of initial consumer subscriptions and
31 renewal subscriptions to the state listing, and the associated

1 fees collected, per month, with an explanation of any factors
2 that affected consumer subscriptions during the evaluation
3 period.

4 (b) The number of purchases of the state listing by
5 solicitors and the amount of fees generated from the
6 purchases.

7 (c) The number of complaints received by the
8 department related to the state listing per month.

9 (d) The number of enforcement actions taken by the
10 department per month, the amount of fines imposed per month,
11 and a description of any settlements reached.

12 (2) The report must also include:

13 (a) The number of listings of Florida consumers
14 registered with the federal Do-Not-Call program which have
15 been downloaded by the department and subscribed to the state
16 listing, as well as the number of listings uploaded to the
17 federal program, and a description of any impediments the
18 department experienced in this process.

19 (b) A description of any activities by the department
20 related to enforcement of the federal Do-Not-Call program.

21 (c) If telephone numbers of Florida consumers
22 registered with the federal Do-Not-Call program have been
23 downloaded to the state listing, an evaluation of whether
24 those consumers have filed complaints with the department,
25 and, if so, the nature of those complaints and what action, if
26 any, was taken by the department to address those complaints.

27 (d) The status of litigation involving the federal
28 program and an evaluation of the litigation's effect on the
29 department's management of the state listing.

30 (e) A recommendation of whether it is feasible to
31 continue operation of the state listing based upon, among

1 other factors, the effects of the federal program; the
2 associated litigation; and the amount of revenue collected
3 from subscriptions, renewals, solicitor fees, and enforcement
4 actions. If the report recommends the continued operation of
5 the state listing, the report must also include a
6 recommendation of, and rationale for, the resources necessary
7 for the department to continue to manage the listing at its
8 current level of consumer protection.

9 (f) A description of how the federal program's
10 preemption of less restrictive state exemptions affects any
11 exemptions allowed under the state's "no sales solicitation
12 calls" listing and a recommendation of legislative action, if
13 any, which may be necessary to address this issue.

14 (g) Any additional information that the department
15 believes will be useful to the Legislature in evaluating the
16 state listing and any potential changes to the state listing.

17 Section 3. Section 501.059, Florida Statutes, is
18 amended to read:

19 501.059 Telephone solicitation.--

20 (1) As used in this section:

21 (a) "Telephonic sales call" means a call made by a
22 telephone solicitor to a consumer, for the purpose of
23 soliciting a sale of any ~~consumer~~ goods or services, or for
24 the purpose of soliciting an extension of credit for ~~consumer~~
25 goods or services, or for the purpose of obtaining information
26 that will or may be used for the direct solicitation of a sale
27 of ~~consumer~~ goods or services or an extension of credit for
28 such purposes.

29 (b) "~~Consumer~~ Goods or services" means any real
30 property or any tangible or intangible personal property which
31 is normally used for personal, family, ~~or~~ household, or

1 business purposes, including, without limitation, any such
2 property intended to be attached to or installed in any real
3 property without regard to whether it is so attached or
4 installed, as well as cemetery lots and timeshare estates, and
5 any services related to such property.

6 (c) "Unsolicited telephonic sales call" means a
7 telephonic sales call other than a call made:

8 1. In response to an express request of the consumer
9 ~~person~~ called;

10 2. Primarily in connection with an existing debt or
11 contract, payment or performance of which has not been
12 completed at the time of such call;

13 3. To any consumer ~~person~~ with whom the telephone
14 solicitor has a prior or existing business relationship; or

15 4. By a newspaper publisher or his or her agent or
16 employee in connection with his or her business.

17 (d) "Commission" means the Florida Public Service
18 Commission.

19 (e) "Telephone solicitor" means any natural person,
20 firm, organization, partnership, association, or corporation,
21 or a subsidiary or affiliate thereof, doing business in this
22 state, who makes or causes to be made a telephonic sales call,
23 including, but not limited to, calls made by use of automated
24 dialing or recorded message devices.

25 (f) "Consumer" means a person as defined in s. 1.01
26 who is an actual or prospective purchaser, lessee, or
27 recipient of ~~consumer~~ goods or services.

28 (g) "Merchant" means a person who, directly or
29 indirectly, offers or makes available to consumers any
30 ~~consumer~~ goods or services.

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1 (h) "Doing business in this state" refers to
2 businesses who conduct telephonic sales calls from a location
3 in Florida or from other states or nations to consumers
4 located in this state ~~Florida~~.

5 (i) "Department" means the Department of Agriculture
6 and Consumer Services.

7 (2) Any telephone solicitor who makes an unsolicited
8 telephonic sales call to a residential, business, mobile, or
9 telephonic paging device telephone number must ~~shall~~ identify
10 himself or herself by his or her true first and last names and
11 the business on whose behalf he or she is soliciting
12 immediately upon making contact by telephone with the consumer
13 ~~person~~ who is the object of the telephone solicitation.

14 (3)(a) Any residential, business, mobile, or
15 telephonic paging device telephone subscriber desiring to be
16 placed on a "no sales solicitation calls" listing indicating
17 that the subscriber does not wish to receive unsolicited
18 telephonic sales calls may notify the department and be placed
19 on that listing upon receipt by the department of a \$10
20 initial listing charge. This listing shall be renewed by the
21 department annually for each subscriber ~~consumer~~ upon receipt
22 of a renewal notice and a \$5 assessment.

23 (b) The department shall update its "no sales
24 solicitation calls" listing upon receipt of initial consumer
25 subscriptions or renewals and provide this listing for a fee
26 to telephone solicitors upon request.

27 (c) All fees imposed under ~~pursuant to~~ this section
28 shall be deposited in the General Inspection Trust Fund for
29 the administration of this section.

30 (4) A ~~No~~ telephone solicitor may not ~~shall~~ make or
31 cause to be made any unsolicited telephonic sales call to any

1 residential, business, mobile, or telephonic paging device
2 telephone number if the number for that telephone appears in
3 the then-current quarterly listing published by the
4 department. Any telephone solicitor or person who offers for
5 sale any consumer information which includes residential,
6 business, mobile, or telephonic paging device telephone
7 numbers, except directory assistance and telephone directories
8 sold by telephone companies and organizations exempt under s.
9 501(c)(3) or (6) of the Internal Revenue Code, must ~~shall~~
10 screen and exclude those numbers which appear on the
11 division's then-current "no sales solicitation calls" list.
12 This subsection does not apply to any person licensed under
13 ~~pursuant to~~ chapter 475 who calls an actual or prospective
14 seller or lessor of real property when the ~~such~~ call is made
15 in response to a yard sign or other form of advertisement
16 placed by the seller or lessor.

17 (5)~~(a)~~ A contract made through ~~pursuant to~~ a
18 telephonic sales call is not valid or ~~and~~ enforceable against
19 a consumer unless the ~~made in compliance with this subsection.~~

20 ~~(b)~~ A contract ~~made pursuant to a telephonic sales~~
21 ~~call:~~

22 ~~(a)1.~~ Is ~~shall be~~ reduced to writing and signed by the
23 consumer.

24 ~~(b)2.~~ Complies ~~shall comply~~ with all other applicable
25 laws and rules.

26 ~~(c)3.~~ Matches ~~shall match~~ the description of goods or
27 services as principally used in the telephone solicitations.

28 ~~(d)4.~~ Contains ~~shall contain~~ the name, address, and
29 telephone number of the seller, the total price of the
30 contract, and a detailed description of the goods or services
31 being sold.

1 (e)~~5~~. Contains ~~shall contain~~, in bold, conspicuous
2 type, immediately preceding the signature, the following
3 statement:

4 "You are not obligated to pay any money unless you sign
5 this contract and return it to the seller."

6 (f)~~6~~. Does ~~May~~ not exclude from its terms any oral or
7 written representations made by the telephone solicitor to the
8 consumer in connection with the transaction.

9 (c) ~~The provisions of~~

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11 This subsection does ~~do~~ not apply to contractual sales
12 regulated under other sections of the Florida Statutes, or to
13 the sale of financial services, security sales, or sales
14 transacted by companies or their wholly owned subsidiaries or
15 agents, which companies are regulated by chapter 364, or to
16 the sale of cable television services to the duly franchised
17 cable television operator's existing subscribers within that
18 cable television operator's franchise area, or to any sales
19 where no prior payment is made to the merchant and an invoice
20 accompanies the goods or services allowing the consumer 7 days
21 to cancel or return without obligation for any payment.

22 (6)(a) A merchant who engages a telephone solicitor to
23 make or cause to be made a telephonic sales call may ~~shall~~ not
24 make or submit any charge to the consumer's credit card
25 account or make or cause to be made any electronic transfer of
26 funds until after the merchant receives from the consumer a
27 copy of the contract, signed by the purchaser, which complies
28 with this section.

29 (b) A merchant who conducts a credit card account
30 transaction under ~~pursuant to~~ this section is ~~shall be~~ subject
31 to ~~the provisions of~~ s. 817.62.

1 (c) ~~The provisions of~~ This subsection does ~~do~~ not
2 apply to a transaction:

3 1. Made in accordance with prior negotiations in the
4 course of a visit by the consumer to a merchant operating a
5 retail business establishment which has a fixed permanent
6 location and where consumer goods are displayed or offered for
7 sale on a continuing basis;

8 2. In which the consumer may obtain a full refund for
9 the return of undamaged and unused goods or a cancellation of
10 services notice to the seller within 7 days after receipt by
11 the consumer, and the seller will process the refund within 30
12 days after receipt of the returned merchandise by the
13 consumer;

14 3. In which the consumer purchases goods or services
15 as part of ~~pursuant to~~ an examination of a television, radio,
16 or print advertisement or a sample, brochure, or catalog of
17 the merchant that contains:

18 a. The name, address, and telephone number of the
19 merchant;

20 b. A description of the goods or services being sold;
21 and

22 c. Any limitations or restrictions that apply to the
23 offer; or

24 4. In which the merchant is a bona fide charitable
25 organization or a newspaper as defined in chapter 50.

26 (7)(a) A ~~No~~ person may not ~~shall~~ make or knowingly
27 allow a telephonic sales call to be made if the ~~such~~ call
28 involves an automated system for the selection or dialing of
29 telephone numbers or the playing of a recorded message when a
30 connection is completed to a number called.

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1 (b) This section does not prohibit ~~Nothing herein~~
2 ~~prohibits~~ the use of an automated telephone dialing system
3 with live messages if the calls are made or messages given
4 solely in response to calls initiated by the persons to whom
5 the automatic calls or live messages are directed or if the
6 telephone numbers selected for automatic dialing have been
7 screened to exclude any telephone subscriber who is included
8 on the department's then-current "no sales solicitation calls"
9 listing or any unlisted telephone number, or if the calls made
10 concern goods or services that have been previously ordered or
11 purchased.

12 (8) The department shall investigate any complaints
13 received concerning violations of this section. If, after
14 investigating any complaint, the department finds that there
15 has been a violation of this section, the department or the
16 Department of Legal Affairs may bring an action to impose a
17 civil penalty and to seek other relief, including injunctive
18 relief, as the court deems appropriate against the telephone
19 solicitor. The civil penalty shall not exceed \$10,000 per
20 violation and shall be deposited in the General Inspection
21 Trust Fund if the action or proceeding was brought by the
22 department, or the Legal Affairs Revolving Trust Fund if the
23 action or proceeding was brought by the Department of Legal
24 Affairs. This civil penalty may be recovered in any action
25 brought under this part by the department, or the department
26 may terminate any investigation or action upon agreement by
27 the person to pay a stipulated civil penalty. The department
28 or the court may waive any civil penalty if the person has
29 previously made full restitution or reimbursement or has paid
30 actual damages to the consumers who have been injured by the
31 violation.

1 (9)(a) In any civil litigation resulting from a
2 transaction involving a violation of this section, the
3 prevailing party, after judgment in the trial court and
4 exhaustion of all appeals, if any, shall receive his or her
5 reasonable attorney's fees and costs from the nonprevailing
6 party.

7 (b) The attorney for the prevailing party shall submit
8 a sworn affidavit of his or her time spent on the case and his
9 or her costs incurred for all the motions, hearings, and
10 appeals to the trial judge who presided over the civil case.

11 (c) The trial judge shall award the prevailing party
12 the sum of reasonable costs incurred in the action plus a
13 reasonable legal fee for the hours actually spent on the case
14 as sworn to in an affidavit.

15 (d) Any award of attorney's fees or costs shall become
16 a part of the judgment and subject to execution as the law
17 allows.

18 (e) In any civil litigation initiated by the
19 department or the Department of Legal Affairs, the court may
20 award to the prevailing party reasonable attorney's fees and
21 costs if the court finds that there was a complete absence of
22 a justiciable issue of either law or fact raised by the losing
23 party or if the court finds bad faith on the part of the
24 losing party.

25 (10) The commission shall by rule ensure that
26 telecommunications companies inform their customers of the
27 provisions of this section. The notification may be made by:

28 (a) Annual inserts in the billing statements mailed to
29 customers; and

30 (b) Conspicuous publication of the notice in the
31 consumer information pages of the local telephone directories.

1 Section 4. Effective October 1, 2004, subsection (7)
2 of section 501.143, Florida Statutes, is amended, and
3 subsections (4) and (6) of that section are reenacted, to
4 read:

5 501.143 Dance Studio Act.--

6 (4) CONTRACT REQUIREMENTS.--Every contract for
7 ballroom dance studio services or lessons shall be in writing
8 and shall be subject to this section. All provisions,
9 requirements, and prohibitions which are mandated by this
10 section shall be contained in the written contract before it
11 is signed by the customer. A copy of the signed contract
12 shall be given to the customer at the time the customer signs
13 the contract.

14 (a) Every contract for ballroom dance studio services
15 or lessons shall set forth the customer's total payment
16 obligation for services or lessons to be received pursuant to
17 the contract and shall contain a written statement of the
18 hourly or lesson rate charged for each type of lesson for
19 which the customer has contracted.

20 (b) If the contract includes ballroom dance studio
21 lessons which are sold at different hourly or lesson rates,
22 the contract shall contain separate hourly or lesson rates for
23 each different type of lesson sold.

24 (c) If the contract for dance studio services or
25 lessons calls for payment in installments, the studio shall
26 comply with all the provisions of the Retail Installment Sales
27 Act, part II of chapter 520.

28 (d) All charges for dance studio services or lessons
29 for which the customer has contracted which are not capable of
30 an hourly rate shall be set forth in writing in specific
31 terms.

1 (e) Every ballroom dance studio to which this section
2 applies shall keep a copy of each contract for dance studio
3 services or lessons on file for as long as the contract is in
4 effect and for a period of 2 years thereafter.

5 (f) Every contract for the sale of future dance studio
6 services or lessons which are paid for in advance or which the
7 buyer agrees to pay for in future installment payments shall
8 be in writing and shall contain in boldfaced type, under
9 conspicuous caption, contractual provisions to the contrary
10 notwithstanding, the following:

11 1. A provision for the penalty-free cancellation of
12 the contract within 3 days, exclusive of holidays and
13 weekends, of its making, upon the mailing or delivery of
14 written notice to the ballroom dance studio. Written notice
15 may be construed as any written expression of the customer to
16 not be bound by the contract. The ballroom dance studio shall
17 refund upon such notice all moneys paid under the contract
18 except the amount for ballroom dance studio services or
19 lessons actually rendered or to have been rendered, by
20 contract, during the number of days prior to the cancellation
21 notice. A refund shall be issued within 20 days after receipt
22 of the notice of cancellation made within the 3-day notice.

23 2. A provision for the cancellation of the contract,
24 if the buyer dies or becomes physically or mentally unable to
25 avail himself or herself of the dance studio lessons or
26 services or if the lessons or services cease to be offered as
27 stated in the contract, after 3 business days of its making
28 and release from further payments upon notice of cancellation.
29 After 3 business days the studio shall charge only for the
30 dance instruction and dance instruction services actually
31 furnished under the agreement plus a reasonable and fair

1 service fee. The studio shall refund the balance in three
2 equal monthly installments, to be completed within not more
3 than 90 days after receiving notice of cancellation.

4 3. Any provision in a dance contract, certificate,
5 dance package, or brochure or other material from a dance
6 studio that purports to waive, limit, restrict, or avoid any
7 of the duties, obligations, or prescriptions of the dance
8 studio, as provided in this section, is void and unenforceable
9 and against public policy, unless it is necessitated by
10 contractual arrangements with suppliers and fully disclosed.

11 (g) A contract for ballroom dance studio services or
12 lessons may not be for a period in excess of 36 months and,
13 thereafter, is only renewable annually. Such renewal contracts
14 may not be executed nor may the fee therefor be paid until 60
15 days or less before the preceding contract expires.

16 (h) A ballroom dance studio may not, directly or
17 indirectly, make an oral or written representation that a
18 ballroom dance studio contract for future services is for a
19 lifetime, constitutes a perpetual membership, or is otherwise
20 for an indefinite term.

21 (6) PROHIBITED PRACTICES.--It is a violation of this
22 section for any person:

23 (a) To conduct business as a ballroom dance studio
24 without registering annually with the department.

25 (b) Knowingly to make any false statement,
26 representation, or certification in any application or
27 registration form required by department rule.

28 (c) Knowingly to violate or fail to comply with any
29 rule or order adopted or issued by the department pursuant to
30 its lawful authority in carrying out the intent of this
31 section.

1 (d) To represent, directly or by implication, that a
2 specified number of dance studio lessons or a dance studio
3 service will be furnished, unless the bona fide lessons or
4 service is in fact furnished as represented.

5 (e) To refuse to honor the terms and provisions of any
6 offer or promise.

7 (f) To use any of the following or similar techniques
8 or practices to mislead, coerce, or induce the purchase of
9 dance studio lessons or dance studio services:

10 1. Requesting any customer to sign an uncompleted
11 contract or agreement;

12 2. Misrepresenting to any customer what is or will be
13 due or payable;

14 3. Using any single day "relay salesmanship" or
15 consecutive sales talks with more than one representative,
16 with or without the use of hidden listening devices;

17 4. Falsely assuring or representing to any customer
18 that a given course of dance studio lessons will enable him or
19 her to achieve a given standard of dancing proficiency;

20 5. Representing in any manner that a dancing
21 instructor or job is obtainable at a studio or misrepresenting
22 what such an instructor will be paid; or

23 6. Using any analyses, tests, studio competitions, or
24 other artifices purportedly designed to evaluate dancing
25 ability, progress, or proficiency when the artifices are not
26 so designed or so used.

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28 The department may employ investigators and conduct
29 investigations of violations of this section.

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1 (7) PENALTIES; REMEDIES.--The following penalties and
2 remedies are available for enforcement of the provisions of
3 this section:

4 (a) The department shall have administrative authority
5 to issue a notice of noncompliance pursuant to s. 120.695 and
6 to suspend or revoke the registration of any ballroom dance
7 studio that violates any of the provisions of this section or
8 the rules adopted or orders issued pursuant to such rules.
9 Such ballroom dance studio may not engage in business while
10 the registration is revoked or suspended.

11 (b) The department may impose an administrative fine
12 not to exceed \$5,000 per violation against any ballroom dance
13 studio that violates any of the provisions of this section or
14 the rules adopted or orders issued pursuant to this section.
15 If the violation relates to a practice prohibited under
16 subsection (6) or a contract requirement under subsection (4)
17 and the individual affected by the violation is a senior
18 citizen or handicapped person as defined in s. 501.2077, the
19 department may impose an administrative fine not to exceed
20 \$15,000 per violation.

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

27 (d) The department may proceed by injunction to
28 prevent any ballroom dance studio from doing business subject
29 to the provisions of this section until a performance bond,
30 letter of credit, or certificate of deposit is posted with the
31 department.

1 (e) The enforcing authority may seek a civil penalty
2 not to exceed \$5,000 for each violation of this section or the
3 rules adopted or orders issued pursuant to such rules and may
4 institute a civil action in circuit court to recover any
5 penalties or damages allowed in this section and for
6 injunctive relief to enforce compliance with this section or
7 any rule or order of the department. If the violation relates
8 to a practice prohibited under subsection (6) or a contract
9 requirement under subsection (4) and the individual affected
10 by the violation is a senior citizen or handicapped person as
11 defined in s. 501.2077, the enforcing authority may seek a
12 civil penalty not to exceed \$15,000 for each violation.

13 (f) The remedies provided in this section are in
14 addition to any other remedies available for the same conduct.

15 Section 5. Effective October 1, 2004, section 525.09,
16 Florida Statutes, is amended to read:

17 525.09 Inspection fee.--

18 (1) For the purpose of defraying the expenses incident
19 to inspecting, testing, and analyzing petroleum fuels in this
20 state, there shall be paid to the department a charge of
21 one-eighth cent per gallon on all gasoline, kerosene (except
22 when used as aviation turbine fuel), and #1 fuel oil for sale
23 or use in this state. This inspection fee shall be imposed in
24 the same manner as the motor fuel tax pursuant to s. 206.41.
25 Payment shall be made on or before the 25th day of each month.

26 (2) If any company fails to make the payment herein
27 provided on or before the 25th day of each month, the
28 department may add 10 percent to the amount of such taxes
29 already due as a penalty for failure of the company to make
30 the report and payment by the 25th day of each month. The
31 department shall proceed to collect the tax, together with all

1 costs incident to collection by the same methods as other
2 delinquent taxes are collected by law.

3 (3) All remittances to the department for the
4 inspection tax herein provided shall be accompanied by a
5 detailed report under oath showing the number of gallons of
6 gasoline, kerosene, or fuel oil sold ~~and delivered in each~~
7 ~~county~~.

8 (4) No inspection fee shall be charged on petroleum
9 fuels unloaded in any of the Florida ports for shipment into
10 other states.

11 Section 6. Effective October 1, 2004, subsection (7)
12 of section 539.001, Florida Statutes, is amended to read:

13 539.001 The Florida Pawnbroking Act.--

14 (7) ORDERS IMPOSING PENALTIES.--

15 (a) The agency may enter an order imposing one or more
16 of the penalties set forth in paragraph (b) if the agency
17 finds that a pawnbroker:

18 1. Violated or is operating in violation of any of the
19 provisions of this section or of the rules adopted or orders
20 issued thereunder;

21 2. Made a material false statement in any application,
22 document, or record required to be submitted or retained under
23 this section;

24 3. Refused or failed, or any of its principal officers
25 has refused or failed, after notice, to produce any document
26 or records or disclose any information required to be produced
27 or disclosed under this section or the rules of the agency;

28 4. Made a material false statement in response to any
29 request or investigation by the agency, the Department of
30 Legal Affairs, or the state attorney; or

31

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

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

5 1. Issuing a notice of noncompliance pursuant to s.
6 120.695.

7 2. Imposing an administrative fine not to exceed
8 \$5,000, or not to exceed \$15,000 in the case of a violation
9 against a senior citizen or handicapped person as defined in
10 s. 501.2077,for each act ~~that~~ ~~which~~ constitutes a violation
11 of this section or a rule or an order.

12 3. Directing that the pawnbroker cease and desist
13 specified activities.

14 4. Refusing to license or revoking or suspending a
15 license.

16 5. Placing the licensee on probation for a period of
17 time, subject to such conditions as the agency may specify.

18 (c) The administrative proceedings which could result
19 in the entry of an order imposing any of the penalties
20 specified in paragraph (b) are governed by chapter 120.

21 (d)1. When the agency, if a violation of this section
22 occurs, has reasonable cause to believe that a person is
23 operating in violation of this section, the agency may bring a
24 civil action in the appropriate court for temporary or
25 permanent injunctive relief and may seek other appropriate
26 civil relief, including a civil penalty not to exceed \$5,000,
27 or not to exceed \$15,000 in the case of a violation against a
28 senior citizen or handicapped person as defined in s.
29 501.2077,for each violation, restitution and damages for
30 injured customers, court costs, and reasonable attorney's
31 fees.

1 2. The agency may terminate any investigation or
2 action upon agreement by the offender to pay a stipulated
3 civil penalty, to make restitution or pay damages to
4 customers, or to satisfy any other relief authorized herein
5 and requested by the agency.

6 (e) The remedies provided for in this subsection shall
7 be in addition to any other remedy provided by law.

8 Section 7. Effective October 1, 2004, subsection (1)
9 of section 559.801, Florida Statutes, is amended to read:

10 559.801 Definitions.--For the purpose of ss.
11 559.80-559.815, the term:

12 (1)(a) "Business opportunity" means the sale or lease
13 of any products, equipment, supplies, or services which are
14 sold or leased to a purchaser to enable the purchaser to start
15 a business for which the purchaser is required to pay an
16 initial fee or sum of money which exceeds \$500 to the seller,
17 and in which the seller represents:

18 1. That the seller or person or entity affiliated with
19 or referred by the seller will provide locations, either
20 contemporaneously at the time of the sale or lease or at a
21 future time, or assist the purchaser in finding locations for
22 the use or operation of vending machines, racks, display
23 cases, currency or card operated equipment, or other similar
24 devices or currency-operated amusement machines or devices on
25 premises neither owned nor leased by the purchaser or seller;

26 2. That the seller will purchase, either
27 contemporaneously at the time of the sale or lease or at a
28 future time, any or all products made, produced, fabricated,
29 grown, bred, or modified by the purchaser using in whole or in
30 part the supplies, services, or chattels sold to the
31 purchaser;

1 3. That the seller guarantees that the purchaser will
2 derive income from the business opportunity which exceeds the
3 price paid or rent charged for the business opportunity or
4 that the seller will refund all or part of the price paid or
5 rent charged for the business opportunity, or will repurchase
6 any of the products, equipment, supplies, or chattels supplied
7 by the seller, if the purchaser is unsatisfied with the
8 business opportunity; or

9 4. That the seller will provide, either
10 contemporaneously at the time of the sale or lease or at a
11 future time, a sales program or marketing program that will
12 enable the purchaser to derive income from the business
13 opportunity, except that this paragraph does not apply to the
14 sale of a sales program or marketing program made in
15 conjunction with the licensing of a trademark or service mark
16 that is registered under the laws of any state or of the
17 United States if the seller requires use of the trademark or
18 service mark in the sales agreement.

19
20 For the purpose of subparagraph 1., the term "assist the
21 purchaser in finding locations" means, but is not limited to,
22 supplying the purchaser with names of locator companies,
23 contracting with the purchaser to provide assistance or supply
24 names, or collecting a fee on behalf of or for a locator
25 company.

26 (b) "Business opportunity" does not include:

27 1. The sale of ongoing businesses when the owner of
28 those businesses sells and intends to sell only those business
29 opportunities so long as those business opportunities to be
30 sold are no more than five in number;

31

1 2. The not-for-profit sale of sales demonstration
2 equipment, materials, or samples for a price that does not
3 exceed \$500 or any sales training course offered by the seller
4 the cost of which does not exceed \$500; or

5 3. The sale or lease of laundry and drycleaning
6 equipment.

7 Section 8. Effective October 1, 2004, section 559.920,
8 Florida Statutes, is amended to read:

9 559.920 Unlawful acts and practices.--It shall be a
10 violation of this act for any motor vehicle repair shop or
11 employee thereof to:

12 (1) Engage or attempt to engage in repair work for
13 compensation of any type without first being registered with
14 ~~or having submitted an affidavit of exemption to the~~
15 department;

16 (2) Make or charge for repairs which have not been
17 expressly or impliedly authorized by the customer;

18 (3) Misrepresent that repairs have been made to a
19 motor vehicle;

20 (4) Misrepresent that certain parts and repairs are
21 necessary to repair a vehicle;

22 (5) Misrepresent that the vehicle being inspected or
23 diagnosed is in a dangerous condition or that the customer's
24 continued use of the vehicle may be harmful or cause great
25 damage to the vehicle;

26 (6) Fraudulently alter any customer contract,
27 estimate, invoice, or other document;

28 (7) Fraudulently misuse any customer's credit card;

29 (8) Make or authorize in any manner or by any means
30 whatever any written or oral statement which is untrue,
31 deceptive or misleading, and which is known, or which by the

1 exercise of reasonable care should be known, to be untrue,
2 deceptive or misleading;
3 (9) Make false promises of a character likely to
4 influence, persuade, or induce a customer to authorize the
5 repair, service, or maintenance of a motor vehicle;
6 (10) Substitute used, rebuilt, salvaged, or
7 straightened parts for new replacement parts without notice to
8 the motor vehicle owner and to her or his insurer if the cost
9 of repair is to be paid pursuant to an insurance policy and
10 the identity of the insurer or its claims adjuster is
11 disclosed to the motor vehicle repair shop;
12 (11) Cause or allow a customer to sign any work order
13 that does not state the repairs requested by the customer or
14 the automobile's odometer reading at the time of repair;
15 (12) Fail or refuse to give to a customer a copy of
16 any document requiring the customer's signature upon
17 completion or cancellation of the repair work;
18 (13) Willfully depart from or disregard accepted
19 practices and professional standards;
20 (14) Have repair work subcontracted without the
21 knowledge or consent of the customer unless the motor vehicle
22 repair shop or employee thereof demonstrates that the customer
23 could not reasonably have been notified;
24 (15) Conduct the business of motor vehicle repair in a
25 location other than that stated on the registration
26 certificate;
27 (16) Rebuild or restore a rebuilt vehicle without the
28 knowledge of the owner in such a manner that it does not
29 conform to the original vehicle manufacturer's established
30 repair procedures or specifications and allowable tolerances
31 for the particular model and year; or

1 (17) Perform any other act that is a violation of this
2 part or that constitutes fraud or misrepresentation.

3 Section 9. Effective October 1, 2004, subsections (4)
4 and (5) of section 559.921, Florida Statutes, are amended to
5 read:

6 559.921 Remedies.--

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

10 1. Violated or is operating in violation of any of the
11 provisions of this part or of the rules adopted or orders
12 issued thereunder;

13 2. Made a material false statement in any application,
14 document, or record required to be submitted or retained under
15 this part;

16 3. Refused or failed, or any of its principal officers
17 have refused or failed, after notice, to produce any document
18 or record or disclose any information required to be produced
19 or disclosed under this part or the rules of the department;

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

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

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

28 1. Issuing a notice of noncompliance pursuant to s.
29 120.695.

30 2. Imposing an administrative fine not to exceed
31 \$1,000 per violation for each act that ~~which~~ constitutes a

1 violation of this part or a rule or order, or not to exceed
2 \$15,000 for each such violation against a senior citizen or
3 handicapped person as defined in s. 501.2077 which results in
4 a finding under subparagraph (a)5.

5 3. Directing that the motor vehicle repair shop cease
6 and desist specified activities.

7 4. Refusing to register or revoking or suspending a
8 registration.

9 5. Placing the registrant on probation for a period of
10 time, subject to such conditions as the department may
11 specify.

12 (c) The administrative proceedings which could result
13 in the entry of an order imposing any of the penalties
14 specified in paragraph (b) shall be conducted in accordance
15 with chapter 120.

16 (5)(a) The department or the state attorney, if a
17 violation of this part occurs in his or her judicial circuit,
18 shall be the enforcing authority for purposes of this part and
19 may bring a civil action in circuit court for temporary or
20 permanent injunctive relief and may seek other appropriate
21 civil relief, including a civil penalty not to exceed \$1,000
22 for each violation, or not to exceed \$15,000 for each
23 violation against a senior citizen or handicapped person as
24 defined in s. 501.2077 which results in a finding under
25 subparagraph (4)(a)5.;restitution and damages for injured
26 customers;7court costs;7and reasonable attorney's fees.

27 (b) The enforcing authority may terminate any
28 investigation or action upon agreement by the offender to pay
29 a stipulated civil penalty, to make restitution or pay damages
30 to customers, or to satisfy any other relief authorized herein
31 and requested by the department.

1 Section 10. Effective October 1, 2004, subsections (1)
2 and (3) of section 559.928, Florida Statutes, are amended to
3 read:

4 559.928 Registration.--

5 (1) Each seller of travel shall annually register with
6 the department, providing: its legal business or trade name,
7 mailing address, and business locations; the full names,
8 addresses, and telephone numbers, ~~and social security numbers~~
9 of its owners or corporate officers and directors and the
10 Florida agent of the corporation; a statement whether it is a
11 domestic or foreign corporation, its state and date of
12 incorporation, its charter number, and, if a foreign
13 corporation, the date it registered with the State of Florida,
14 and occupational license where applicable; the date on which a
15 seller of travel registered its fictitious name if the seller
16 of travel is operating under a fictitious or trade name; the
17 name of all other corporations, business entities, and trade
18 names through which each owner of the seller of travel
19 operated, was known, or did business as a seller of travel
20 within the preceding 5 years; a list of all authorized
21 independent agents, including the agent's trade name, full
22 name, mailing address, business address, telephone numbers,
23 and social security number; the business location and address
24 of each branch office and full name and address of the manager
25 or supervisor; and proof of purchase of adequate bond or
26 establishment of a letter of credit or certificate of deposit
27 as required in this part. A certificate evidencing proof of
28 registration shall be issued by the department and must be
29 prominently displayed in the seller of travel's primary place
30 of business.

31

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

26 Section 11. Section 559.934, Florida Statutes, is
27 amended to read:

28 559.934 Deceptive and unfair trade practice.--Acts,
29 conduct, practices, omissions, failings, misrepresentations,
30 or nondisclosures that ~~which~~ constitute a violation of this
31 part also constitute a deceptive and unfair trade practice for

1 the purpose of ss. 501.201-501.213, the Florida Deceptive and
2 Unfair Trade Practices Act, ~~s. 501.201~~ and administrative
3 rules adopted ~~promulgated~~ thereunder.

4 Section 12. Section 570.544, Florida Statutes, as
5 amended by section 61 of chapter 2003-399, Laws of Florida, is
6 amended to read:

7 570.544 Division of Consumer Services; director;
8 powers; processing of complaints; records.--

9 (1) The director of the Division of Consumer Services
10 shall be appointed by and serve at the pleasure of the
11 commissioner.

12 (2) The Division of Consumer Services may:

13 (a) Conduct studies and make analyses of matters
14 affecting the interests of consumers.

15 (b) Study the operation of laws for consumer
16 protection.

17 (c) Advise and make recommendations to the various
18 state agencies concerned with matters affecting consumers.

19 (d) Assist, advise, and cooperate with local, state,
20 or federal agencies and officials in order to promote the
21 interests of consumers.

22 (e) Make use of the testing and laboratory facilities
23 of the department for the detection of consumer fraud.

24 (f) Report to the appropriate law enforcement officers
25 any information concerning violation of consumer protection
26 laws.

27 (g) Assist, develop, and conduct programs of consumer
28 education and consumer information through publications and
29 other informational and educational material prepared for
30 dissemination to the public, in order to increase the
31 competence of consumers.

1 (h) Organize and hold conferences on problems
2 affecting consumers.

3 (i) Recommend programs to encourage business and
4 industry to maintain high standards of honesty, fair business
5 practices, and public responsibility in the production,
6 promotion, and sale of consumer goods and services.

7 (3) In addition to the powers, duties, and
8 responsibilities authorized by this or any other chapter, the
9 Division of Consumer Services shall serve as a clearinghouse
10 for matters relating to consumer protection, consumer
11 information, and consumer services generally.

12 (a) The division ~~it~~ shall receive complaints and
13 grievances from consumers and promptly transmit them to that
14 agency most directly concerned in order that the complaint or
15 grievance may be expeditiously handled in the best interests
16 of the complaining consumer.

17 (b) If no agency exists to which the division may
18 transmit a complaint or grievance under paragraph (a), the
19 ~~division of Consumer Services~~ shall seek a settlement of the
20 complaint using formal or informal methods of mediation and
21 conciliation and may seek any other resolution of the matter
22 in accordance with its jurisdiction.

23 (4) If any complaint received by the Division of
24 Consumer Services concerns matters which involve concurrent
25 jurisdiction in more than one agency, duplicate copies of the
26 complaint shall be referred to those offices deemed to have
27 concurrent jurisdiction.

28 (5)(a) Any agency, office, bureau, division, or board
29 of state government receiving a complaint which deals with
30 consumer fraud or consumer protection and which is not within
31 the jurisdiction of the receiving agency, office, bureau,

1 division, or board originally receiving it, shall immediately
2 refer the complaint to the Division of Consumer Services.

3 (b) Upon receipt of such a complaint, the Division of
4 Consumer Services shall make a determination of the proper
5 jurisdiction to which the complaint relates and shall
6 immediately refer the complaint to the agency, office, bureau,
7 division, or board which does have the proper regulatory or
8 enforcement authority to deal with it.

9 (6)(a) The office or agency to which a complaint has
10 been referred shall within 30 days acknowledge receipt of the
11 complaint and report on the disposition made of the complaint.
12 In the event a complaint has not been disposed of within 30
13 days, the receiving office or agency shall file progress
14 reports with the Division of Consumer Services no less
15 frequently than 30 days until final disposition.

16 (b) The report shall contain at least the following
17 information:

18 1. A finding of whether the receiving agency has
19 jurisdiction of the subject matter involved in the complaint.

20 2. Whether the complaint is deemed to be frivolous,
21 sham, or without basis in fact or law.

22 3. What action has been taken and a report on whether
23 the original complainant was satisfied with the final
24 disposition.

25 4. Any recommendation regarding needed changes in law
26 or procedure which in the opinion of the reporting agency or
27 office will improve consumer protection in the area involved.

28 (7)(a) If the office or agency receiving a complaint
29 fails to file a report as contemplated in this section, that
30 failure shall be construed as a denial by the receiving office

31

1 or agency that it has jurisdiction of the subject matter
2 contained in the complaint.

3 (b) If an office or agency receiving a complaint
4 determines that the matter presents a prima facie case for
5 criminal prosecution or if the complaint cannot be settled at
6 the administrative level, the complaint together with all
7 supporting evidence shall be transmitted to the Department of
8 Legal Affairs or other appropriate enforcement agency with a
9 recommendation for civil or criminal action warranted by the
10 evidence.

11 (8) The records of the Division of Consumer Services
12 are public records. However, customer lists, customer names,
13 and trade secrets are confidential and exempt from the
14 provisions of s. 119.07(1). Disclosure necessary to
15 enforcement procedures shall not be construed as violative of
16 this prohibition.

17 (9) It shall be the duty of the Division of Consumer
18 Services to maintain records and compile summaries and
19 analyses of consumer complaints and their eventual
20 disposition, which data may serve as a basis for
21 recommendations to the Legislature and to state regulatory
22 agencies. This duty includes, but is not limited to, a duty to
23 make reports and offer recommendations to the Commissioner of
24 Agriculture for submission to the Legislature and to state
25 regulatory agencies concerning changes in laws or
26 administrative rules which the division determines may be
27 necessary or warranted based upon an analysis of complaints
28 reviewed under paragraph (3)(b).

29 Section 13. Effective October 1, 2004, subsection (7)
30 of section 616.242, Florida Statutes, is amended to read:

31 616.242 Safety standards for amusement rides.--

1 (7) DEPARTMENT INSPECTIONS.--

2 (a) In order to obtain an annual permit, an amusement
3 ride must be inspected by the department in accordance with
4 subsection (11) and receive an inspection certificate. In
5 addition, each permanent amusement ride must be inspected
6 semiannually by the department in accordance with subsection
7 (11) and receive an inspection certificate and must receive an
8 inspection certificate when it is relocated;~~and each~~
9 temporary amusement ride must be inspected by the department
10 in accordance with subsection (11), and must receive an
11 inspection certificate each time the ride is set up or moved
12 to a new location in this state unless the temporary amusement
13 ride is:

14 1. Used at a private event;

15 2. A simulator, the capacity of which does not exceed
16 16 persons; or

17 3. A kiddie ride used at a public event, provided that
18 there are no more than three amusement rides at the event,
19 none of the kiddie rides at the event exceeds a capacity of 12
20 persons, and the ride has an inspection certificate that was
21 issued within the preceding 6 months. The capacity of a kiddie
22 ride shall be determined by rule of the department, unless the
23 capacity of the ride has been determined and specified by the
24 manufacturer. Any owner of a kiddie ride operating under this
25 exemption is responsible for ensuring that no more than three
26 amusement rides are operated at the event.

27 (b) To obtain a department inspection for an amusement
28 ride, the owner must submit to the department on a form
29 prescribed by rule of the department a written Request for
30 Inspection. The owner must provide the following information
31 to the department:

1 1. The legal name, address, and primary place of
2 business of the owner, the requested inspection date, the date
3 of first intended use or planned opening date, and the date of
4 arrival on site.

5 2. A description, manufacturer's name, serial number,
6 model number, and the United States Amusement Identification
7 Number, if previously assigned, of the amusement ride.

8 3. For a temporary amusement ride, for each time the
9 amusement ride is set up or moved to a new location, the
10 requested inspection date ~~of first intended use~~ at the new
11 location and the address or a description of the new location.

12 (c) For permanent amusement rides, the request for
13 inspection must be received by the department at least 15 days
14 before the requested inspection ~~owner's planned opening~~ date
15 or at least 15 days before the expiration of the prior
16 inspection certificate. If the request for inspection is
17 received less than 15 days before the requested inspection
18 ~~owner's planned opening~~ date or less than 15 days before the
19 expiration of the prior inspection certificate, the department
20 may nevertheless inspect the amusement ride and charge a late
21 fee, as set by rule of the department.

22 (d) For temporary amusement rides, the request for
23 inspection must be received by the department for each time
24 the amusement ride is set up or moved to a new location at
25 least 14 days before the requested inspection date ~~of first~~
26 ~~intended use~~ at the new location. If the request for
27 inspection is received less than 14 days before the requested
28 inspection date ~~of first intended use~~ at the new location, the
29 department may nevertheless inspect the amusement ride and
30 charge a late fee, as set by rule of the department.

31

1 (e) Inspections will be assigned on a first come,
2 first served basis, and overflow requests will be scheduled on
3 the closest date to the date for which the inspection was
4 requested.

5 (f) Upon failure of an amusement ride to pass any
6 department inspection, the owner may request reinspection
7 which shall be submitted in writing to the department on a
8 form prescribed by rule of the department. The department
9 shall reinspect the amusement ride as soon as practical
10 following receipt of the written request for reinspection and
11 any applicable reinspection fees set by rule of the
12 department. Inspections will be assigned on a first come,
13 first served basis, and the overflow requests will be
14 scheduled on the closest date to the date for which the
15 inspection was requested.

16 (g) If the amusement ride passes inspection and the
17 owner pays the applicable fee set by rule of the department,
18 the department shall issue an inspection certificate on a form
19 prescribed by rule of the department.

20 (h) The inspection certificate must contain the date
21 of inspection, the site of the inspection, and the name of the
22 inspector.

23 (i) The inspection certificate is valid only for the
24 site stated on the inspection certificate. The inspection
25 certificate is valid for a period of not more than 6 months
26 from the date of issuance, and is not transferable.

27 (j) The inspection certificate must be displayed on
28 the amusement ride at a place readily visible to patrons of
29 the amusement ride.

30 (k) If the owner fails to timely cancel a Request for
31 Inspection, requests holiday or weekend inspections, or is

1 required to have a replacement USAID plate issued by the
2 department, the owner may be charged an appropriate fee to be
3 set by rule of the department.

4 Section 14. Effective October 1, 2004, section
5 817.568, Florida Statutes, is amended to read:

6 817.568 Criminal use of personal identification
7 information.--

8 (1) As used in this section, the term:

9 (a) "Access device" means any card, plate, code,
10 account number, electronic serial number, mobile
11 identification number, personal identification number, or
12 other telecommunications service, equipment, or instrument
13 identifier, or other means of account access that can be used,
14 alone or in conjunction with another access device, to obtain
15 money, goods, services, or any other thing of value, or that
16 can be used to initiate a transfer of funds, other than a
17 transfer originated solely by paper instrument.

18 (b) "Authorization" means empowerment, permission, or
19 competence to act.

20 (c) "Harass" means to engage in conduct directed at a
21 specific person that is intended to cause substantial
22 emotional distress to such person and serves no legitimate
23 purpose. "Harass" does not mean to use personal identification
24 information for accepted commercial purposes. The term does
25 not include constitutionally protected conduct such as
26 organized protests or the use of personal identification
27 information for accepted commercial purposes.

28 (d) "Individual" means a single human being, including
29 a deceased individual, and does not mean a firm, association
30 of individuals, corporation, partnership, joint venture, sole
31 proprietorship, or any other entity.

1 (e) "Person" means a "person" as defined in s.
2 1.01(3).

3 (f) "Personal identification information" means any
4 name or number that may be used, alone or in conjunction with
5 any other information, to identify a specific individual,
6 including any:

7 1. Name, social security number, date of birth,
8 official state-issued or United States-issued driver's license
9 or identification number, alien registration number,
10 government passport number, employer or taxpayer
11 identification number, Medicaid or food stamp account number,
12 or bank account or credit card number;

13 2. Unique biometric data, such as fingerprint, voice
14 print, retina or iris image, or other unique physical
15 representation;

16 3. Unique electronic identification number, address,
17 or routing code; or

18 4. Telecommunication identifying information or access
19 device.

20 (2)(a) Any person who willfully and without
21 authorization fraudulently uses, or possesses with intent to
22 fraudulently use, personal identification information
23 concerning an individual without first obtaining the ~~that~~
24 ~~individual's~~ consent of the individual or, if the individual
25 is deceased, the individual's estate, commits the offense of
26 fraudulent use of personal identification information, which
27 is a felony of the third degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084.

29 (b) Any person who willfully and without authorization
30 fraudulently uses personal identification information
31 concerning an individual without first obtaining the ~~that~~

1 ~~individual's~~ consent of the individual or, if the individual
2 is deceased, the individual's estate commits a felony of the
3 second degree, punishable as provided in s. 775.082, s.
4 775.083, or s. 775.084, if the pecuniary benefit, the value of
5 the services received, the payment sought to be avoided, or
6 the amount of the injury or fraud perpetrated is \$5,000 or
7 more or if the person fraudulently uses the personal
8 identification information of 10 or more individuals without
9 their consent or, if deceased, the consent of their estates.
10 Notwithstanding any other provision of law, the court shall
11 sentence any person convicted of committing the offense
12 described in this paragraph to a mandatory minimum sentence of
13 3 years' imprisonment.

14 (c) Any person who willfully and without authorization
15 fraudulently uses personal identification information
16 concerning an individual without first obtaining ~~the~~ that
17 ~~individual's~~ consent of the individual or, if deceased, the
18 individual's estate commits a felony of the first degree,
19 punishable as provided in s. 775.082, s. 775.083, or s.
20 775.084, if the pecuniary benefit, the value of the services
21 received, the payment sought to be avoided, or the amount of
22 the injury or fraud perpetrated is \$50,000 or more or if the
23 person fraudulently uses the personal identification
24 information of 20 or more individuals without their consent
25 or, if deceased, the consent of their estates. Notwithstanding
26 any other provision of law, the court shall sentence any
27 person convicted of committing the offense described in this
28 paragraph:

29 1. To a mandatory minimum sentence of 5 years'
30 imprisonment.

31

1 2. To a mandatory minimum sentence of 10 years'
2 imprisonment, if the pecuniary benefit, the value of the
3 services received, the payment sought to be avoided, or the
4 amount of the injury or fraud perpetrated is \$100,000 or more
5 or if the person fraudulently uses the personal identification
6 information of 30 or more individuals without their consent
7 or, if deceased, the consent of their estates.

8 (3) Neither paragraph (2)(b) nor paragraph (2)(c)
9 prevents a court from imposing a greater sentence of
10 incarceration as authorized by law. If the minimum mandatory
11 terms of imprisonment imposed under paragraph (2)(b) or
12 paragraph (2)(c) exceed the maximum sentences authorized under
13 s. 775.082, s. 775.084, or the Criminal Punishment Code under
14 chapter 921, the mandatory minimum sentence must be imposed.
15 If the mandatory minimum terms of imprisonment under paragraph
16 (2)(b) or paragraph (2)(c) are less than the sentence that
17 could be imposed under s. 775.082, s. 775.084, or the Criminal
18 Punishment Code under chapter 921, the sentence imposed by the
19 court must include the mandatory minimum term of imprisonment
20 as required by paragraph (2)(b) or paragraph (2)(c).

21 (4) Any person who willfully and without authorization
22 possesses, uses, or attempts to use personal identification
23 information concerning an individual without first obtaining
24 that individual's consent, and who does so for the purpose of
25 harassing that individual, commits the offense of harassment
26 by use of personal identification information, which is a
27 misdemeanor of the first degree, punishable as provided in s.
28 775.082 or s. 775.083.

29 (5) If an offense prohibited under this section was
30 facilitated or furthered by the use of a public record, as
31

1 defined in s. 119.011, the offense is reclassified to the next
2 higher degree as follows:

3 (a) A misdemeanor of the first degree is reclassified
4 as a felony of the third degree.

5 (b) A felony of the third degree is reclassified as a
6 felony of the second degree.

7 (c) A felony of the second degree is reclassified as a
8 felony of the first degree.

9

10 For purposes of sentencing under chapter 921 and incentive
11 gain-time eligibility under chapter 944, a felony offense that
12 is reclassified under this subsection is ranked one level
13 above the ranking under s. 921.0022 of the felony offense
14 committed, and a misdemeanor offense that is reclassified
15 under this subsection is ranked in level 2 of the offense
16 severity ranking chart in s. 921.0022.

17 (6) Any person who willfully and without authorization
18 fraudulently uses personal identification information
19 concerning an individual who is less than 18 years of age
20 without first obtaining the consent of that individual or of
21 his or her legal guardian commits a felony of the second
22 degree, punishable as provided in s. 775.082, s. 775.083, or
23 s. 775.084.

24 (7) Any person who is in the relationship of parent or
25 legal guardian, or who otherwise exercises custodial authority
26 over an individual who is less than 18 years of age, who
27 willfully and fraudulently uses personal identification
28 information of that individual commits a felony of the second
29 degree, punishable as provided in s. 775.082, s. 775.083, or
30 s. 775.084.

31

1 (8) This section does not prohibit any lawfully
2 authorized investigative, protective, or intelligence activity
3 of a law enforcement agency of this state or any of its
4 political subdivisions, of any other state or its political
5 subdivisions, or of the Federal Government or its political
6 subdivisions.

7 (9)(a) In sentencing a defendant convicted of an
8 offense under this section, the court may order that the
9 defendant make restitution pursuant to s. 775.089 to any
10 victim of the offense. In addition to the victim's
11 out-of-pocket costs, such restitution may include payment of
12 any other costs, including attorney's fees incurred by the
13 victim in clearing the victim's credit history or credit
14 rating, or any costs incurred in connection with any civil or
15 administrative proceeding to satisfy any debt, lien, or other
16 obligation of the victim arising as the result of the actions
17 of the defendant. For the purposes of this paragraph, the term
18 "victim" may include the estate of an individual.

19 (b) The sentencing court may issue such orders as are
20 necessary to correct any public record that contains false
21 information given in violation of this section.

22 (10) Prosecutions for violations of this section may
23 be brought on behalf of the state by any state attorney or by
24 the statewide prosecutor.

25 (11) The Legislature finds that, in the absence of
26 evidence to the contrary, the location where a victim gives or
27 fails to give consent to the use of personal identification
28 information is the county where the victim generally resides
29 or, in a case in which the victim is the estate of a deceased
30 individual, where the deceased individual generally resided.

31

1 (12) Notwithstanding any other provision of law, venue
2 for the prosecution and trial of violations of this section
3 may be commenced and maintained in any county in which an
4 element of the offense occurred, including the county where
5 the victim generally resides or, in a case in which the victim
6 is the estate of a deceased individual, where the deceased
7 individual generally resided.

8 (13) A prosecution of an offense prohibited under
9 subsection (2), subsection (6), or subsection (7) must be
10 commenced within 3 years after the offense occurred. However,
11 a prosecution may be commenced within 1 year after discovery
12 of the offense by an aggrieved party, or by a person who has a
13 legal duty to represent the aggrieved party and who is not a
14 party to the offense, if such prosecution is commenced within
15 5 years after the violation occurred.

16 Section 15. Effective October 1, 2004, subsections
17 (1), (3), (4), and (5) of section 849.094, Florida Statutes,
18 are amended to read:

19 849.094 Game promotion in connection with sale of
20 consumer products or services.--

21 (1) As used in this section, the term:

22 (a) "Game promotion" means, but is not limited to, a
23 contest, game of chance, or gift enterprise, conducted within
24 or throughout the state and other states in connection with
25 the sale of consumer products or services, and in which the
26 elements of chance and prize are present. However, "game
27 promotion" shall not be construed to apply to bingo games
28 conducted pursuant to s. 849.0931.

29 (b) "Operator" means any person, firm, corporation, or
30 association on whose behalf a game promotion is conducted ~~or~~
31 ~~agent or employee thereof who promotes, operates, or conducts~~

1 ~~a game promotion~~, except any charitable nonprofit
2 organization.

3 (3) The operator of a game promotion in which the
4 total announced value of the prizes offered is greater than
5 \$5,000 shall file with the Department of Agriculture and
6 Consumer Services a copy of the rules and regulations of the
7 game promotion and a list of all prizes and prize categories
8 offered at least 7 calendar days, excluding weekends and legal
9 holidays, before the commencement of the game promotion. Such
10 rules and regulations may not thereafter be changed, modified,
11 or altered. The operator of a game promotion shall
12 conspicuously post the rules and regulations of such game
13 promotion in each and every retail outlet or place where such
14 game promotion may be played or participated in by the public
15 and shall also publish the rules and regulations in all
16 advertising copy used in connection therewith. Radio and
17 television announcements may indicate that the rules and
18 regulations are available at retail outlets or from the
19 operator of the promotion. A nonrefundable filing fee of \$150
20 ~~\$100~~ shall accompany each filing and shall be used to pay the
21 costs incurred in administering and enforcing the provisions
22 of this section.

23 (4)(a) Every operator of such a game promotion in
24 which the total announced value of the prizes offered is
25 greater than \$5,000 shall establish a trust account, in a
26 national or state-chartered financial institution, with a
27 balance sufficient to pay or purchase the total value of all
28 prizes offered. On a form supplied by the Department of
29 Agriculture and Consumer Services, an official of the
30 financial institution holding the trust account shall set
31 forth the dollar amount of the trust account, the identity of

1 the entity or individual establishing the trust account, and
2 the name of the game promotion for which the trust account has
3 been established. Such form shall be filed with the
4 Department of Agriculture and Consumer Services at least 7
5 calendar days, excluding weekends and legal holidays, in
6 advance of the commencement of the game promotion. In lieu of
7 establishing such trust account, the operator may obtain a
8 surety bond in an amount equivalent to the total value of all
9 prizes offered; and such bond shall be filed with the
10 Department of Agriculture and Consumer Services at least 7
11 calendar days, excluding weekends and legal holidays, in
12 advance of the commencement of the game promotion.

13 1. The moneys held in the trust account may be
14 withdrawn in order to pay the prizes offered only upon
15 certification to the Department of Agriculture and Consumer
16 Services of the name of the winner or winners and the amount
17 of the prize or prizes and the value thereof.

18 2. If the operator of a game promotion has obtained a
19 surety bond in lieu of establishing a trust account, the
20 amount of the surety bond shall equal at all times the total
21 amount of the prizes offered.

22 (b) The Department of Agriculture and Consumer
23 Services may waive the provisions of this subsection for any
24 operator who has conducted game promotions in the state for
25 not less than 5 consecutive years and who has not had any
26 civil, criminal, or administrative action instituted against
27 him or her by the state or an agency of the state for
28 violation of this section within that 5-year period. Such
29 waiver may be revoked upon the commission of a violation of
30 this section by such operator, as determined by the Department
31 of Agriculture and Consumer Services.

1 (5) Every operator of a game promotion in which the
2 total announced value of the prizes offered is greater than
3 \$5,000 shall provide the Department of Agriculture and
4 Consumer Services with a certified list of the names and
5 addresses of all persons, whether from this state or from
6 another state, who have won prizes which have a value of more
7 than ~~\$100~~^{\$25}, the value of such prizes, and the dates when
8 the prizes were won within 60 calendar days after such winners
9 have been finally determined. If there is not a winner, the
10 operator shall provide written notice to the department within
11 60 calendar days after such determination has been made.The
12 operator shall provide a copy of the list of winners, without
13 charge, to any person who requests it. In lieu of the
14 foregoing, the operator of a game promotion may, at his or her
15 option, publish the same information about the winners in a
16 Florida newspaper of general circulation within 60 calendar
17 days after such winners have been determined and shall provide
18 to the Department of Agriculture and Consumer Services a
19 certified copy of the publication containing the information
20 about the winners. The operator of a game promotion is not
21 required to notify a winner by mail or by telephone when the
22 winner is already in possession of a game card from which the
23 winner can determine that he or she has won a designated
24 prize. All winning entries shall be held by the operator for
25 a period of 90 calendar days after the close or completion of
26 the game.

27 Section 16. Effective October 1, 2004, for the purpose
28 of incorporating the amendment made by this act to section
29 817.568, Florida Statutes, in references thereto, paragraphs
30 (d), (e), (h), and (i) of subsection (3) of section 921.0022,
31 Florida Statutes, are reenacted to read:

1	921.0022	Criminal Punishment Code; offense severity	
2	ranking chart.--		
3	(3)	OFFENSE SEVERITY RANKING CHART	
4			
5	Florida	Felony	
6	Statute	Degree	Description
7			
8			
9			(d) LEVEL 4
10	316.1935(3)	2nd	Driving at high speed or with
11			wanton disregard for safety while
12			fleeing or attempting to elude
13			law enforcement officer who is in
14			a marked patrol vehicle with
15			siren and lights activated.
16	499.0051(1)	3rd	Failure to maintain or deliver
17			pedigree papers.
18	499.0051(2)	3rd	Failure to authenticate pedigree
19			papers.
20	499.0051(6)	2nd	Sale or delivery, or possession
21			with intent to sell, contraband
22			legend drugs.
23	784.07(2)(b)	3rd	Battery of law enforcement
24			officer, firefighter, intake
25			officer, etc.
26	784.074(1)(c)	3rd	Battery of sexually violent
27			predators facility staff.
28	784.075	3rd	Battery on detention or
29			commitment facility staff.
30			
31			

1	784.078	3rd	Battery of facility employee by
2			throwing, tossing, or expelling
3			certain fluids or materials.
4	784.08(2)(c)	3rd	Battery on a person 65 years of
5			age or older.
6	784.081(3)	3rd	Battery on specified official or
7			employee.
8	784.082(3)	3rd	Battery by detained person on
9			visitor or other detainee.
10	784.083(3)	3rd	Battery on code inspector.
11	784.085	3rd	Battery of child by throwing,
12			tossing, projecting, or expelling
13			certain fluids or materials.
14	787.03(1)	3rd	Interference with custody;
15			wrongly takes child from
16			appointed guardian.
17	787.04(2)	3rd	Take, entice, or remove child
18			beyond state limits with criminal
19			intent pending custody
20			proceedings.
21	787.04(3)	3rd	Carrying child beyond state lines
22			with criminal intent to avoid
23			producing child at custody
24			hearing or delivering to
25			designated person.
26	790.115(1)	3rd	Exhibiting firearm or weapon
27			within 1,000 feet of a school.
28	790.115(2)(b)	3rd	Possessing electric weapon or
29			device, destructive device, or
30			other weapon on school property.
31			

1	790.115(2)(c)	3rd	Possessing firearm on school
2			property.
3	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
4			offender less than 18 years.
5	810.02(4)(a)	3rd	Burglary, or attempted burglary,
6			of an unoccupied structure;
7			unarmed; no assault or battery.
8	810.02(4)(b)	3rd	Burglary, or attempted burglary,
9			of an unoccupied conveyance;
10			unarmed; no assault or battery.
11	810.06	3rd	Burglary; possession of tools.
12	810.08(2)(c)	3rd	Trespass on property, armed with
13			firearm or dangerous weapon.
14	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
15			or more but less than \$20,000.
16	812.014		
17	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
18			firearm, motor vehicle,
19			livestock, etc.
20	812.0195(2)	3rd	Dealing in stolen property by use
21			of the Internet; property stolen
22			\$300 or more.
23	817.563(1)	3rd	Sell or deliver substance other
24			than controlled substance agreed
25			upon, excluding s. 893.03(5)
26			drugs.
27	817.568(2)(a)	3rd	Fraudulent use of personal
28			identification information.
29	817.625(2)(a)	3rd	Fraudulent use of scanning device
30			or reencoder.
31			

1	828.125(1)	2nd	Kill, maim, or cause great bodily
2			harm or permanent breeding
3			disability to any registered
4			horse or cattle.
5	837.02(1)	3rd	Perjury in official proceedings.
6	837.021(1)	3rd	Make contradictory statements in
7			official proceedings.
8	838.022	3rd	Official misconduct.
9	839.13(2)(a)	3rd	Falsifying records of an
10			individual in the care and
11			custody of a state agency.
12	839.13(2)(c)	3rd	Falsifying records of the
13			Department of Children and Family
14			Services.
15	843.021	3rd	Possession of a concealed
16			handcuff key by a person in
17			custody.
18	843.025	3rd	Deprive law enforcement,
19			correctional, or correctional
20			probation officer of means of
21			protection or communication.
22	843.15(1)(a)	3rd	Failure to appear while on bail
23			for felony (bond estreature or
24			bond jumping).
25	874.05(1)	3rd	Encouraging or recruiting another
26			to join a criminal street gang.
27	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
28			893.03(1)(a), (b), or (d),
29			(2)(a), (2)(b), or (2)(c)4.
30			drugs).
31	914.14(2)	3rd	Witnesses accepting bribes.

1	914.22(1)	3rd	Force, threaten, etc., witness,
2			victim, or informant.
3	914.23(2)	3rd	Retaliation against a witness,
4			victim, or informant, no bodily
5			injury.
6	918.12	3rd	Tampering with jurors.
7	934.215	3rd	Use of two-way communications
8			device to facilitate commission
9			of a crime.
10			(e) LEVEL 5
11	316.027(1)(a)	3rd	Accidents involving personal
12			injuries, failure to stop;
13			leaving scene.
14	316.1935(4)	2nd	Aggravated fleeing or eluding.
15	322.34(6)	3rd	Careless operation of motor
16			vehicle with suspended license,
17			resulting in death or serious
18			bodily injury.
19	327.30(5)	3rd	Vessel accidents involving
20			personal injury; leaving scene.
21	381.0041		
22	(11)(b)	3rd	Donate blood, plasma, or organs
23			knowing HIV positive.
24	440.10(1)(g)	2nd	Failure to obtain workers'
25			compensation coverage.
26	440.105(5)	2nd	Unlawful solicitation for the
27			purpose of making workers'
28			compensation claims.
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1	440.381(2)	2nd	Submission of false, misleading,
2			or incomplete information with
3			the purpose of avoiding or
4			reducing workers' compensation
5			premiums.
6	624.401(4)(b)2.	2nd	Transacting insurance without a
7			certificate or authority; premium
8			collected \$20,000 or more but
9			less than \$100,000.
10	626.902(1)(c)	2nd	Representing an unauthorized
11			insurer; repeat offender.
12	790.01(2)	3rd	Carrying a concealed firearm.
13	790.162	2nd	Threat to throw or discharge
14			destructive device.
15	790.163(1)	2nd	False report of deadly explosive
16			or weapon of mass destruction.
17	790.221(1)	2nd	Possession of short-barreled
18			shotgun or machine gun.
19	790.23	2nd	Felons in possession of firearms
20			or electronic weapons or devices.
21	800.04(6)(c)	3rd	Lewd or lascivious conduct;
22			offender less than 18 years.
23	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
24			offender 18 years or older.
25	806.111(1)	3rd	Possess, manufacture, or dispense
26			fire bomb with intent to damage
27			any structure or property.
28	812.0145(2)(b)	2nd	Theft from person 65 years of age
29			or older; \$10,000 or more but
30			less than \$50,000.
31			

1	812.015(8)	3rd	Retail theft; property stolen is
2			valued at \$300 or more and one or
3			more specified acts.
4	812.019(1)	2nd	Stolen property; dealing in or
5			trafficking in.
6	812.131(2)(b)	3rd	Robbery by sudden snatching.
7	812.16(2)	3rd	Owning, operating, or conducting
8			a chop shop.
9	817.034(4)(a)2.	2nd	Communications fraud, value
10			\$20,000 to \$50,000.
11	817.234(11)(b)	2nd	Insurance fraud; property value
12			\$20,000 or more but less than
13			\$100,000.
14	817.2341(1),		
15	(2)(a)&(3)(a)	3rd	Filing false financial
16			statements, making false entries
17			of material fact or false
18			statements regarding property
19			values relating to the solvency
20			of an insuring entity.
21	817.568(2)(b)	2nd	Fraudulent use of personal
22			identification information; value
23			of benefit, services received,
24			payment avoided, or amount of
25			injury or fraud, \$5,000 or more
26			or use of personal identification
27			information of 10 or more
28			individuals.
29	817.625(2)(b)	2nd	Second or subsequent fraudulent
30			use of scanning device or
31			reencoder.

1	825.1025(4)	3rd	Lewd or lascivious exhibition in
2			the presence of an elderly person
3			or disabled adult.
4	827.071(4)	2nd	Possess with intent to promote
5			any photographic material, motion
6			picture, etc., which includes
7			sexual conduct by a child.
8	839.13(2)(b)	2nd	Falsifying records of an
9			individual in the care and
10			custody of a state agency
11			involving great bodily harm or
12			death.
13	843.01	3rd	Resist officer with violence to
14			person; resist arrest with
15			violence.
16	874.05(2)	2nd	Encouraging or recruiting another
17			to join a criminal street gang;
18			second or subsequent offense.
19	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
20			cocaine (or other s.
21			893.03(1)(a), (1)(b), (1)(d),
22			(2)(a), (2)(b), or (2)(c)4.
23			drugs).
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1	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs) within 1,000
7			feet of a child care facility,
8			school, or state, county, or
9			municipal park or publicly owned
10			recreational facility or
11			community center.
12	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
13			cocaine (or other s.
14			893.03(1)(a), (1)(b), (1)(d),
15			(2)(a), (2)(b), or (2)(c)4.
16			drugs) within 1,000 feet of
17			university.
18	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
19			cannabis or other drug prohibited
20			under s. 893.03(1)(c), (2)(c)1.,
21			(2)(c)2., (2)(c)3., (2)(c)5.,
22			(2)(c)6., (2)(c)7., (2)(c)8.,
23			(2)(c)9., (3), or (4) within
24			1,000 feet of property used for
25			religious services or a specified
26			business site.
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1	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d), or
4			(2)(a), (2)(b), or (2)(c)4.
5			drugs) within 1,000 feet of
6			public housing facility.
7	893.13(4)(b)	2nd	Deliver to minor cannabis (or
8			other s. 893.03(1)(c), (2)(c)1.,
9			(2)(c)2., (2)(c)3., (2)(c)5.,
10			(2)(c)6., (2)(c)7., (2)(c)8.,
11			(2)(c)9., (3), or (4) drugs).
12			(h) LEVEL 8
13	316.193		
14	(3)(c)3.a.	2nd	DUI manslaughter.
15	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
16	499.0051(7)	1st	Forgery of prescription or legend
17			drug labels.
18	499.0052	1st	Trafficking in contraband legend
19			drugs.
20	560.123(8)(b)2.	2nd	Failure to report currency or
21			payment instruments totaling or
22			exceeding \$20,000, but less than
23			\$100,000 by money transmitter.
24	560.125(5)(b)	2nd	Money transmitter business by
25			unauthorized person, currency or
26			payment instruments totaling or
27			exceeding \$20,000, but less than
28			\$100,000.
29			
30			
31			

1	655.50(10)(b)2.	2nd	Failure to report financial
2			transactions totaling or
3			exceeding \$20,000, but less than
4			\$100,000 by financial
5			institutions.
6	777.03(2)(a)	1st	Accessory after the fact, capital
7			felony.
8	782.04(4)	2nd	Killing of human without design
9			when engaged in act or attempt of
10			any felony other than arson,
11			sexual battery, robbery,
12			burglary, kidnapping, aircraft
13			piracy, or unlawfully discharging
14			bomb.
15	782.051(2)	1st	Attempted felony murder while
16			perpetrating or attempting to
17			perpetrate a felony not
18			enumerated in s. 782.04(3).
19	782.071(1)(b)	1st	Committing vehicular homicide and
20			failing to render aid or give
21			information.
22	782.072(2)	1st	Committing vessel homicide and
23			failing to render aid or give
24			information.
25	790.161(3)	1st	Discharging a destructive device
26			which results in bodily harm or
27			property damage.
28	794.011(5)	2nd	Sexual battery, victim 12 years
29			or over, offender does not use
30			physical force likely to cause
31			serious injury.

1	800.04(4)	2nd	Lewd or lascivious battery.
2	806.01(1)	1st	Maliciously damage dwelling or
3			structure by fire or explosive,
4			believing person in structure.
5	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
6	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
7			or dangerous weapon.
8	810.02(2)(c)	1st	Burglary of a dwelling or
9			structure causing structural
10			damage or \$1,000 or more property
11			damage.
12	812.13(2)(b)	1st	Robbery with a weapon.
13	812.135(2)	1st	Home-invasion robbery.
14	817.568(6)	2nd	Fraudulent use of personal
15			identification information of an
16			individual under the age of 18.
17	825.102(2)	2nd	Aggravated abuse of an elderly
18			person or disabled adult.
19	825.1025(2)	2nd	Lewd or lascivious battery upon
20			an elderly person or disabled
21			adult.
22	825.103(2)(a)	1st	Exploiting an elderly person or
23			disabled adult and property is
24			valued at \$100,000 or more.
25	837.02(2)	2nd	Perjury in official proceedings
26			relating to prosecution of a
27			capital felony.
28	837.021(2)	2nd	Making contradictory statements
29			in official proceedings relating
30			to prosecution of a capital
31			felony.

1	860.121(2)(c)	1st	Shooting at or throwing any
2			object in path of railroad
3			vehicle resulting in great bodily
4			harm.
5	860.16	1st	Aircraft piracy.
6	893.13(1)(b)	1st	Sell or deliver in excess of 10
7			grams of any substance specified
8			in s. 893.03(1)(a) or (b).
9	893.13(2)(b)	1st	Purchase in excess of 10 grams of
10			any substance specified in s.
11			893.03(1)(a) or (b).
12	893.13(6)(c)	1st	Possess in excess of 10 grams of
13			any substance specified in s.
14			893.03(1)(a) or (b).
15	893.135(1)(a)2.	1st	Trafficking in cannabis, more
16			than 2,000 lbs., less than 10,000
17			lbs.
18	893.135		
19	(1)(b)1.b.	1st	Trafficking in cocaine, more than
20			200 grams, less than 400 grams.
21	893.135		
22	(1)(c)1.b.	1st	Trafficking in illegal drugs,
23			more than 14 grams, less than 28
24			grams.
25	893.135		
26	(1)(d)1.b.	1st	Trafficking in phencyclidine,
27			more than 200 grams, less than
28			400 grams.
29			
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31			

1	893.135		
2	(1)(e)1.b.	1st	Trafficking in methaqualone, more
3			than 5 kilograms, less than 25
4			kilograms.
5	893.135		
6	(1)(f)1.b.	1st	Trafficking in amphetamine, more
7			than 28 grams, less than 200
8			grams.
9	893.135		
10	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
11			grams or more, less than 28
12			grams.
13	893.135		
14	(1)(h)1.b.	1st	Trafficking in
15			gamma-hydroxybutyric acid (GHB),
16			5 kilograms or more, less than 10
17			kilograms.
18	893.135		
19	(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5
20			kilograms or more, less than 10
21			kilograms.
22	893.135		
23	(1)(k)2.b.	1st	Trafficking in Phenethylamines,
24			200 grams or more, less than 400
25			grams.
26	895.03(1)	1st	Use or invest proceeds derived
27			from pattern of racketeering
28			activity.
29			
30			
31			

1	895.03(2)	1st	Acquire or maintain through
2			racketeering activity any
3			interest in or control of any
4			enterprise or real property.
5	895.03(3)	1st	Conduct or participate in any
6			enterprise through pattern of
7			racketeering activity.
8	896.101(5)(b)	2nd	Money laundering, financial
9			transactions totaling or
10			exceeding \$20,000, but less than
11			\$100,000.
12	896.104(4)(a)2.	2nd	Structuring transactions to evade
13			reporting or registration
14			requirements, financial
15			transactions totaling or
16			exceeding \$20,000 but less than
17			\$100,000.
18			(i) LEVEL 9
19	316.193		
20	(3)(c)3.b.	1st	DUI manslaughter; failing to
21			render aid or give information.
22	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
23			render aid or give information.
24	499.0053	1st	Sale or purchase of contraband
25			legend drugs resulting in great
26			bodily harm.
27	560.123(8)(b)3.	1st	Failure to report currency or
28			payment instruments totaling or
29			exceeding \$100,000 by money
30			transmitter.
31			

1	560.125(5)(c)	1st	Money transmitter business by
2			unauthorized person, currency, or
3			payment instruments totaling or
4			exceeding \$100,000.
5	655.50(10)(b)3.	1st	Failure to report financial
6			transactions totaling or
7			exceeding \$100,000 by financial
8			institution.
9	775.0844	1st	Aggravated white collar crime.
10	782.04(1)	1st	Attempt, conspire, or solicit to
11			commit premeditated murder.
12	782.04(3)	1st,PBL	Accomplice to murder in
13			connection with arson, sexual
14			battery, robbery, burglary, and
15			other specified felonies.
16	782.051(1)	1st	Attempted felony murder while
17			perpetrating or attempting to
18			perpetrate a felony enumerated in
19			s. 782.04(3).
20	782.07(2)	1st	Aggravated manslaughter of an
21			elderly person or disabled adult.
22	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
23			reward or as a shield or hostage.
24	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
25			or facilitate commission of any
26			felony.
27	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
28			interfere with performance of any
29			governmental or political
30			function.
31			

1	787.02(3)(a)	1st	False imprisonment; child under
2			age 13; perpetrator also commits
3			aggravated child abuse, sexual
4			battery, or lewd or lascivious
5			battery, molestation, conduct, or
6			exhibition.
7	790.161	1st	Attempted capital destructive
8			device offense.
9	790.166(2)	1st,PBL	Possessing, selling, using, or
10			attempting to use a weapon of
11			mass destruction.
12	794.011(2)	1st	Attempted sexual battery; victim
13			less than 12 years of age.
14	794.011(2)	Life	Sexual battery; offender younger
15			than 18 years and commits sexual
16			battery on a person less than 12
17			years.
18	794.011(4)	1st	Sexual battery; victim 12 years
19			or older, certain circumstances.
20	794.011(8)(b)	1st	Sexual battery; engage in sexual
21			conduct with minor 12 to 18 years
22			by person in familial or
23			custodial authority.
24	800.04(5)(b)	1st	Lewd or lascivious molestation;
25			victim less than 12 years;
26			offender 18 years or older.
27	812.13(2)(a)	1st,PBL	Robbery with firearm or other
28			deadly weapon.
29	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
30			deadly weapon.
31			

1	817.568(7)	2nd,PBL	Fraudulent use of personal
2			identification information of an
3			individual under the age of 18 by
4			his or her parent, legal
5			guardian, or person exercising
6			custodial authority.
7	827.03(2)	1st	Aggravated child abuse.
8	847.0145(1)	1st	Selling, or otherwise
9			transferring custody or control,
10			of a minor.
11	847.0145(2)	1st	Purchasing, or otherwise
12			obtaining custody or control, of
13			a minor.
14	859.01	1st	Poisoning or introducing
15			bacteria, radioactive materials,
16			viruses, or chemical compounds
17			into food, drink, medicine, or
18			water with intent to kill or
19			injure another person.
20	893.135	1st	Attempted capital trafficking
21			offense.
22	893.135(1)(a)3.	1st	Trafficking in cannabis, more
23			than 10,000 lbs.
24	893.135		
25	(1)(b)1.c.	1st	Trafficking in cocaine, more than
26			400 grams, less than 150
27			kilograms.
28	893.135		
29	(1)(c)1.c.	1st	Trafficking in illegal drugs,
30			more than 28 grams, less than 30
31			kilograms.

1 893.135
2 (1)(d)1.c. 1st Trafficking in phencyclidine,
3 more than 400 grams.
4 893.135
5 (1)(e)1.c. 1st Trafficking in methaqualone, more
6 than 25 kilograms.
7 893.135
8 (1)(f)1.c. 1st Trafficking in amphetamine, more
9 than 200 grams.
10 893.135
11 (1)(h)1.c. 1st Trafficking in
12 gamma-hydroxybutyric acid (GHB),
13 10 kilograms or more.
14 893.135
15 (1)(j)1.c. 1st Trafficking in 1,4-Butanediol, 10
16 kilograms or more.
17 893.135
18 (1)(k)2.c. 1st Trafficking in Phenethylamines,
19 400 grams or more.
20 896.101(5)(c) 1st Money laundering, financial
21 instruments totaling or exceeding
22 \$100,000.
23 896.104(4)(a)3. 1st Structuring transactions to evade
24 reporting or registration
25 requirements, financial
26 transactions totaling or
27 exceeding \$100,000.
28 Section 17. Health-related discount cards; regulation
29 of sellers; penalty.--
30 (1) A person may not sell, market, promote, advertise,
31 or distribute a card or other purchasing mechanism or device

1 that is not insurance and that purports to offer discounts or
2 access to discounts from a health care provider for
3 health-related purchases or from a pharmacy for purchases of
4 prescription drugs, unless:

5 (a) The person registers annually with the Department
6 of Financial Services for this express purpose;

7 (b) The card or other purchasing mechanism or device
8 expressly states in bold and prominent type, prominently
9 placed, that the discounts are not insurance;

10 (c) The person provides documentation to the
11 Department of Financial Services that the discounts are
12 specifically authorized and the person has a separate contract
13 with each health care provider, health provider network,
14 pharmacy, or pharmacy chain listed in conjunction with the
15 card or other purchasing mechanism or device; and

16 (d) The discounts or access to discounts offered, or
17 the range of discounts or access to the range of discounts
18 offered, are not misleading, deceptive, or fraudulent.

19
20 The registration fee under paragraph (a) is \$50 per year per
21 registrant. All amounts collected shall be deposited in the
22 General Revenue Fund.

23 (2)(a) A person who sells, markets, promotes,
24 advertises, or distributes a card or other purchasing
25 mechanism or device that is not insurance and that purports to
26 offer discounts or access to discounts from a health care
27 provider for health-related purchases or from a pharmacy for
28 purchases of prescription drugs in this state must designate a
29 resident of this state as an agent for service of process and
30 register the agent with the Secretary of State.

31

1 (b) In the absence of proper registration under
2 paragraph (a), the Secretary of State is designated as an
3 agent upon whom process may be served. Service of process on
4 the Secretary of State may be made by delivering to and
5 leaving with the Secretary of State, or with any person
6 designated by him or her to receive such service, duplicate
7 copies of the process, notice, or demand. The Secretary of
8 State shall forward one of the copies by registered or
9 certified mail, return receipt requested, to the person
10 required to register under paragraph (a) at the last physical
11 address known to the party serving process. Refusal to sign
12 the return receipt does not affect the validity of the
13 service. Service is effective under this subsection as of the
14 date shown on the return receipt or 5 days after its deposit
15 in the mail, whichever is earlier. The Secretary of State may
16 charge a fee of \$10 for the service. This subsection does not
17 affect the right to serve process in any manner otherwise
18 provided by law.

19 (3) Except as provided in subsection (4), a person who
20 violates this section commits a misdemeanor of the first
21 degree, punishable as provided in section 775.082 or section
22 775.083, Florida Statutes.

23 (4) A person who violates this section and who has
24 been previously convicted of or adjudicated delinquent for any
25 violation of this section two or more times commits a felony
26 of the third degree, punishable as provided in section
27 775.082, section 775.083, or section 775.084, Florida
28 Statutes.

29 (5) Notwithstanding subsection (3) or subsection (4),
30 a person who violates this section is subject to all remedies
31 available by law.

1 (6) The Department of Financial Services may adopt
2 rules to administer this section, including rules governing
3 the procedures and forms to register with the department and
4 provide the documentation required under subsection (1).

5 (7) This section is effective October 1, 2004.

6 Section 18. For the 2004-2005 fiscal year, the sum of
7 \$100,000 is appropriated from the General Inspection Trust
8 Fund to the Department of Agriculture and Consumer Services
9 for the purpose of providing financial assistance for
10 individuals to undertake technical training or courses of
11 study in motor vehicle repair as provided in section 559.922,
12 Florida Statutes.

13 Section 19. For the 2004-2005 fiscal year, the sum of
14 \$100,000 is appropriated from the General Revenue Fund to the
15 Department of Agriculture and Consumer Services to implement
16 the consumer education pilot program, as created by this act.

17 Section 20. (1) For fiscal year 2004-2005, the sum of
18 \$255,391 from the General Revenue Fund and seven
19 full-time-equivalent positions are appropriated to the
20 Department of Agriculture and Consumer Services for the
21 purpose of mediating complaints in nonregulated areas under
22 section 570.544, Florida Statutes.

23 (2) For the 2004-2005 fiscal year, the sum of \$100,000
24 is appropriated from the General Revenue Fund to the
25 Department of Agriculture and Consumer Services to market to
26 the public the services provided by the department's Division
27 of Consumer Services under section 570.544, Florida Statutes,
28 including, but not limited to, the division's mediation of
29 complaints in nonregulated areas.

30 Section 21. Except as otherwise expressly provided in
31 this act, this act shall take effect July 1, 2004.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1314

The committee substitute differs from the original bill by:
(1) adding a consumer education pilot program and a corresponding appropriation to be administered by the Department of Agriculture and Consumer Services to better educate secondary and postsecondary students on consumer issues; (2) requiring the department to issue a report to the Governor and the Legislature regarding the continued viability of the state's "no sales solicitation calls" listing; (3) providing a business the option to subscribe a business telephone number to the state's "no sales solicitation calls" listing; (4) authorizing increased administrative fines and civil penalties for violations against senior citizens and handicapped persons of the ballroom dance studio law, the pawnbroking law, and the motor vehicle repair law; (5) providing an appropriation to an authorized department program to provide assistance to motor vehicle repair shop employees wishing to take courses in motor vehicle repair; (6) clarifying when the department may assist consumers with complaints against unregulated entities and providing an appropriation to fund seven full-time-equivalent positions in the department for assisting consumers who have complaints against unregulated entities; (7) providing an appropriation for the department to market its consumer-assistance services to the public; (8) creating the crime of identity theft against a deceased person by revising the definition of "individual" under the identify theft law to include a deceased person and establishing penalties; and (9) requiring the registration of health-related discount card providers with the Department of Financial Services before a provider may conduct business and providing penalties for failure to register or for defrauding consumers.