

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

303-2565-04

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; revising a requirement that game
11 rules and regulations be published in
12 advertising copy to require publication of the
13 material terms of such rules and regulations;
14 reenacting s. 921.0022(3)(d), (e), (h), and
15 (i), F.S., relating to the offense severity
16 ranking chart of the Criminal Punishment Code,
17 to incorporate the amendment to s. 817.568,
18 F.S., in references thereto; prohibiting the
19 marketing and distribution of health-related
20 discount cards under certain conditions;
21 requiring a person who markets or distributes
22 such cards to register with the Department of
23 Financial Services; providing an annual
24 registration fee; requiring designation of an
25 agent for service of process; providing for
26 service of process with the Secretary of State;
27 providing criminal penalties and other
28 remedies; authorizing the Department of
29 Financial Services to adopt rules; providing
30 appropriations; authorizing
31 full-time-equivalent positions within the

1 Department of Agriculture and Consumer
2 Services; providing effective dates.

3
4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Consumer education pilot program.--

7 (1) The Department of Agriculture and Consumer
8 Services shall develop and implement during the 2004-2005
9 fiscal year a pilot program to educate secondary and
10 postsecondary students about consumer protection issues.

11 (a) The purpose of the pilot program shall be to
12 assist students in developing skills to make informed choices
13 as consumers, as well as in developing an understanding of
14 their rights and responsibilities as consumers.

15 (b) The pilot program may address topics including,
16 but not limited to:

- 17 1. Purchasing an automobile.
- 18 2. Credit cards and other consumer debt.
- 19 3. Landlord and tenant relations.
- 20 4. Health studios.
- 21 5. Home employment opportunities.
- 22 6. Identity theft.
- 23 7. Credit reporting and scoring.

24 (c) The pilot program shall be implemented in at least
25 four different regions of the state.

26 (d) Methods to implement the pilot program may
27 include, but are not limited to:

- 28 1. School site visits.
- 29 2. Public service announcements.
- 30 3. Contests in which students participate.
- 31 4. Seminars or similar training sessions.

1 5. Provision of information using Internet-based
2 applications.

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4 The department is encouraged to use Internet-based
5 applications to maximize the number of students who may
6 participate in the pilot program.

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

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

17 Section 2. The Department of Agriculture and Consumer
18 Services shall prepare a report that evaluates the operation
19 of the state's "no sales solicitation calls" listing,
20 established under section 501.059, Florida Statutes, during
21 the period from November 1, 2003, to November 1, 2004, and
22 assesses the continued viability of the state listing as it
23 has been affected by, among other factors, the federal
24 Do-Not-Call program established through rules of the Federal
25 Trade Commission and the Federal Communications Commission
26 published at 68 Federal Register 4580 and 68 Federal Register
27 44144. The department shall submit the report to the Governor,
28 the President of the Senate, and the Speaker of the House of
29 Representatives by December 1, 2004.

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

4 (a) The number of initial consumer subscriptions and
5 renewal subscriptions to the state listing, and the associated
6 fees collected, per month, with an explanation of any factors
7 that affected consumer subscriptions during the evaluation
8 period.

9 (b) The number of purchases of the state listing by
10 solicitors and the amount of fees generated from the
11 purchases.

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

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

17 (2) The report must also include:

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

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

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

1 (d) The status of litigation involving the federal
2 program and an evaluation of the litigation's effect on the
3 department's management of the state listing.

4 (e) A recommendation of whether it is feasible to
5 continue operation of the state listing based upon, among
6 other factors, the effects of the federal program; the
7 associated litigation; and the amount of revenue collected
8 from subscriptions, renewals, solicitor fees, and enforcement
9 actions. If the report recommends the continued operation of
10 the state listing, the report must also include a
11 recommendation of, and rationale for, the resources necessary
12 for the department to continue to manage the listing at its
13 current level of consumer protection.

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

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

22 Section 3. Section 501.059, Florida Statutes, is
23 amended to read:

24 501.059 Telephone solicitation.--

25 (1) As used in this section:

26 (a) "Telephonic sales call" means a call made by a
27 telephone solicitor to a consumer, for the purpose of
28 soliciting a sale of any ~~consumer~~ goods or services, or for
29 the purpose of soliciting an extension of credit for ~~consumer~~
30 goods or services, or for the purpose of obtaining information
31 that will or may be used for the direct solicitation of a sale

1 of ~~consumer~~ goods or services or an extension of credit for
2 such purposes.

3 (b) "~~Consumer~~ Goods or services" means any real
4 property or any tangible or intangible personal property which
5 is normally used for personal, family, ~~or~~ household, or
6 business purposes, including, without limitation, any such
7 property intended to be attached to or installed in any real
8 property without regard to whether it is so attached or
9 installed, as well as cemetery lots and timeshare estates, and
10 any services related to such property.

11 (c) "Unsolicited telephonic sales call" means a
12 telephonic sales call other than a call made:

13 1. In response to an express request of the consumer
14 ~~person~~ called;

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

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

20 4. By a newspaper publisher or his or her agent or
21 employee in connection with his or her business.

22 (d) "Commission" means the Florida Public Service
23 Commission.

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

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

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

7 (h) "Doing business in this state" refers to
8 businesses who conduct telephonic sales calls from a location
9 in Florida or from other states or nations to consumers
10 located in this state ~~Florida~~.

11 (i) "Department" means the Department of Agriculture
12 and Consumer Services.

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

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

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

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

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

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

27 ~~(b)~~ A contract ~~made pursuant to a telephonic sales~~
28 ~~call:~~

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

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

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

5 **(d)4.** Contains ~~shall contain~~ the name, address, and
6 telephone number of the seller, the total price of the
7 contract, and a detailed description of the goods or services
8 being sold.

9 **(e)5.** Contains ~~shall contain~~, in bold, conspicuous
10 type, immediately preceding the signature, the following
11 statement:

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

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

17 ~~(c) The provisions of~~

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

30 (6)(a) A merchant who engages a telephone solicitor to
31 make or cause to be made a telephonic sales call may ~~shall~~ not

1 make or submit any charge to the consumer's credit card
2 account or make or cause to be made any electronic transfer of
3 funds until after the merchant receives from the consumer a
4 copy of the contract, signed by the purchaser, which complies
5 with this section.

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

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

11 1. Made in accordance with prior negotiations in the
12 course of a visit by the consumer to a merchant operating a
13 retail business establishment which has a fixed permanent
14 location and where consumer goods are displayed or offered for
15 sale on a continuing basis;

16 2. In which the consumer may obtain a full refund for
17 the return of undamaged and unused goods or a cancellation of
18 services notice to the seller within 7 days after receipt by
19 the consumer, and the seller will process the refund within 30
20 days after receipt of the returned merchandise by the
21 consumer;

22 3. In which the consumer purchases goods or services
23 as part of ~~pursuant to~~ an examination of a television, radio,
24 or print advertisement or a sample, brochure, or catalog of
25 the merchant that contains:

26 a. The name, address, and telephone number of the
27 merchant;

28 b. A description of the goods or services being sold;
29 and

30 c. Any limitations or restrictions that apply to the
31 offer; or

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

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

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

19 (8) The department shall investigate any complaints
20 received concerning violations of this section. If, after
21 investigating any complaint, the department finds that there
22 has been a violation of this section, the department or the
23 Department of Legal Affairs may bring an action to impose a
24 civil penalty and to seek other relief, including injunctive
25 relief, as the court deems appropriate against the telephone
26 solicitor. The civil penalty shall not exceed \$10,000 per
27 violation and shall be deposited in the General Inspection
28 Trust Fund if the action or proceeding was brought by the
29 department, or the Legal Affairs Revolving Trust Fund if the
30 action or proceeding was brought by the Department of Legal
31 Affairs. This civil penalty may be recovered in any action

1 brought under this part by the department, or the department
2 may terminate any investigation or action upon agreement by
3 the person to pay a stipulated civil penalty. The department
4 or the court may waive any civil penalty if the person has
5 previously made full restitution or reimbursement or has paid
6 actual damages to the consumers who have been injured by the
7 violation.

8 (9)(a) In any civil litigation resulting from a
9 transaction involving a violation of this section, the
10 prevailing party, after judgment in the trial court and
11 exhaustion of all appeals, if any, shall receive his or her
12 reasonable attorney's fees and costs from the nonprevailing
13 party.

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

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

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

25 (e) In any civil litigation initiated by the
26 department or the Department of Legal Affairs, the court may
27 award to the prevailing party reasonable attorney's fees and
28 costs if the court finds that there was a complete absence of
29 a justiciable issue of either law or fact raised by the losing
30 party or if the court finds bad faith on the part of the
31 losing party.

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

4 (a) Annual inserts in the billing statements mailed to
5 customers; and

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

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

12 501.143 Dance Studio Act.--

13 (4) CONTRACT REQUIREMENTS.--Every contract for
14 ballroom dance studio services or lessons shall be in writing
15 and shall be subject to this section. All provisions,
16 requirements, and prohibitions which are mandated by this
17 section shall be contained in the written contract before it
18 is signed by the customer. A copy of the signed contract
19 shall be given to the customer at the time the customer signs
20 the contract.

21 (a) Every contract for ballroom dance studio services
22 or lessons shall set forth the customer's total payment
23 obligation for services or lessons to be received pursuant to
24 the contract and shall contain a written statement of the
25 hourly or lesson rate charged for each type of lesson for
26 which the customer has contracted.

27 (b) If the contract includes ballroom dance studio
28 lessons which are sold at different hourly or lesson rates,
29 the contract shall contain separate hourly or lesson rates for
30 each different type of lesson sold.

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

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

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

13 (f) Every contract for the sale of future dance studio
14 services or lessons which are paid for in advance or which the
15 buyer agrees to pay for in future installment payments shall
16 be in writing and shall contain in boldfaced type, under
17 conspicuous caption, contractual provisions to the contrary
18 notwithstanding, the following:

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

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1 2. A provision for the cancellation of the contract,
2 if the buyer dies or becomes physically or mentally unable to
3 avail himself or herself of the dance studio lessons or
4 services or if the lessons or services cease to be offered as
5 stated in the contract, after 3 business days of its making
6 and release from further payments upon notice of cancellation.
7 After 3 business days the studio shall charge only for the
8 dance instruction and dance instruction services actually
9 furnished under the agreement plus a reasonable and fair
10 service fee. The studio shall refund the balance in three
11 equal monthly installments, to be completed within not more
12 than 90 days after receiving notice of cancellation.

13 3. Any provision in a dance contract, certificate,
14 dance package, or brochure or other material from a dance
15 studio that purports to waive, limit, restrict, or avoid any
16 of the duties, obligations, or prescriptions of the dance
17 studio, as provided in this section, is void and unenforceable
18 and against public policy, unless it is necessitated by
19 contractual arrangements with suppliers and fully disclosed.

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

25 (h) A ballroom dance studio may not, directly or
26 indirectly, make an oral or written representation that a
27 ballroom dance studio contract for future services is for a
28 lifetime, constitutes a perpetual membership, or is otherwise
29 for an indefinite term.

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

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

3 (b) Knowingly to make any false statement,
4 representation, or certification in any application or
5 registration form required by department rule.

6 (c) Knowingly to violate or fail to comply with any
7 rule or order adopted or issued by the department pursuant to
8 its lawful authority in carrying out the intent of this
9 section.

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

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

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

19 1. Requesting any customer to sign an uncompleted
20 contract or agreement;

21 2. Misrepresenting to any customer what is or will be
22 due or payable;

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

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

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

1 6. Using any analyses, tests, studio competitions, or
2 other artifices purportedly designed to evaluate dancing
3 ability, progress, or proficiency when the artifices are not
4 so designed or so used.

5
6 The department may employ investigators and conduct
7 investigations of violations of this section.

8 (7) PENALTIES; REMEDIES.--The following penalties and
9 remedies are available for enforcement of the provisions of
10 this section:

11 (a) The department shall have administrative authority
12 to issue a notice of noncompliance pursuant to s. 120.695 and
13 to suspend or revoke the registration of any ballroom dance
14 studio that violates any of the provisions of this section or
15 the rules adopted or orders issued pursuant to such rules.
16 Such ballroom dance studio may not engage in business while
17 the registration is revoked or suspended.

18 (b) The department may impose an administrative fine
19 not to exceed \$5,000 per violation against any ballroom dance
20 studio that violates any of the provisions of this section or
21 the rules adopted or orders issued pursuant to this section.
22 If the violation relates to a practice prohibited under
23 subsection (6) or a contract requirement under subsection (4)
24 and the individual affected by the violation is a senior
25 citizen or handicapped person as defined in s. 501.2077, the
26 department may impose an administrative fine not to exceed
27 \$15,000 per violation.

28 (c) Notwithstanding the provisions of subsection (5),
29 the department may require any ballroom dance studio that has
30 operated or is operating in violation of any of the provisions
31 of this section or the rules adopted or orders issued pursuant

1 to such rules to post security with the department in an
2 amount not to exceed \$25,000.

3 (d) The department may proceed by injunction to
4 prevent any ballroom dance studio from doing business subject
5 to the provisions of this section until a performance bond,
6 letter of credit, or certificate of deposit is posted with the
7 department.

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

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

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

24 525.09 Inspection fee.--

25 (1) For the purpose of defraying the expenses incident
26 to inspecting, testing, and analyzing petroleum fuels in this
27 state, there shall be paid to the department a charge of
28 one-eighth cent per gallon on all gasoline, kerosene (except
29 when used as aviation turbine fuel), and #1 fuel oil for sale
30 or use in this state. This inspection fee shall be imposed in

31

1 the same manner as the motor fuel tax pursuant to s. 206.41.
2 Payment shall be made on or before the 25th day of each month.

3 (2) If any company fails to make the payment herein
4 provided on or before the 25th day of each month, the
5 department may add 10 percent to the amount of such taxes
6 already due as a penalty for failure of the company to make
7 the report and payment by the 25th day of each month. The
8 department shall proceed to collect the tax, together with all
9 costs incident to collection by the same methods as other
10 delinquent taxes are collected by law.

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

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

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

21 539.001 The Florida Pawnbroking Act.--

22 (7) ORDERS IMPOSING PENALTIES.--

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

26 1. Violated or is operating in violation of any of the
27 provisions of this section or of the rules adopted or orders
28 issued thereunder;

29 2. Made a material false statement in any application,
30 document, or record required to be submitted or retained under
31 this section;

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

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

8 5. Has intentionally defrauded the public through
9 dishonest or deceptive means.

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

12 1. Issuing a notice of noncompliance pursuant to s.
13 120.695.

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

19 3. Directing that the pawnbroker cease and desist
20 specified activities.

21 4. Refusing to license or revoking or suspending a
22 license.

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

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

28 (d)1. When the agency, if a violation of this section
29 occurs, has reasonable cause to believe that a person is
30 operating in violation of this section, the agency may bring a
31 civil action in the appropriate court for temporary or

1 permanent injunctive relief and may seek other appropriate
2 civil relief, including a civil penalty not to exceed \$5,000,
3 or not to exceed \$15,000 in the case of a violation against a
4 senior citizen or handicapped person as defined in s.
5 501.2077,for each violation, restitution and damages for
6 injured customers, court costs, and reasonable attorney's
7 fees.

8 2. The agency may terminate any investigation or
9 action upon agreement by the offender to pay a stipulated
10 civil penalty, to make restitution or pay damages to
11 customers, or to satisfy any other relief authorized herein
12 and requested by the agency.

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

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

17 559.801 Definitions.--For the purpose of ss.
18 559.80-559.815, the term:

19 (1)(a) "Business opportunity" means the sale or lease
20 of any products, equipment, supplies, or services which are
21 sold or leased to a purchaser to enable the purchaser to start
22 a business for which the purchaser is required to pay an
23 initial fee or sum of money which exceeds \$500 to the seller,
24 and in which the seller represents:

25 1. That the seller or person or entity affiliated with
26 or referred by the seller will provide locations, either
27 contemporaneously at the time of the sale or lease or at a
28 future time,or assist the purchaser in finding locations for
29 the use or operation of vending machines, racks, display
30 cases, currency or card operated equipment, or other similar
31

1 devices or currency-operated amusement machines or devices on
2 premises neither owned nor leased by the purchaser or seller;

3 2. That the seller will purchase, either
4 contemporaneously at the time of the sale or lease or at a
5 future time, any or all products made, produced, fabricated,
6 grown, bred, or modified by the purchaser using in whole or in
7 part the supplies, services, or chattels sold to the
8 purchaser;

9 3. That the seller guarantees that the purchaser will
10 derive income from the business opportunity which exceeds the
11 price paid or rent charged for the business opportunity or
12 that the seller will refund all or part of the price paid or
13 rent charged for the business opportunity, or will repurchase
14 any of the products, equipment, supplies, or chattels supplied
15 by the seller, if the purchaser is unsatisfied with the
16 business opportunity; or

17 4. That the seller will provide, either
18 contemporaneously at the time of the sale or lease or at a
19 future time, a sales program or marketing program that will
20 enable the purchaser to derive income from the business
21 opportunity, except that this paragraph does not apply to the
22 sale of a sales program or marketing program made in
23 conjunction with the licensing of a trademark or service mark
24 that is registered under the laws of any state or of the
25 United States if the seller requires use of the trademark or
26 service mark in the sales agreement.

27
28 For the purpose of subparagraph 1., the term "assist the
29 purchaser in finding locations" means, but is not limited to,
30 supplying the purchaser with names of locator companies,
31 contracting with the purchaser to provide assistance or supply

1 names, or collecting a fee on behalf of or for a locator
2 company.

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

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

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

12 3. The sale or lease of laundry and drycleaning
13 equipment.

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

16 559.920 Unlawful acts and practices.--It shall be a
17 violation of this act for any motor vehicle repair shop or
18 employee thereof to:

19 (1) Engage or attempt to engage in repair work for
20 compensation of any type without first being registered with
21 ~~or having submitted an affidavit of exemption to the~~
22 department;

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

25 (3) Misrepresent that repairs have been made to a
26 motor vehicle;

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

29 (5) Misrepresent that the vehicle being inspected or
30 diagnosed is in a dangerous condition or that the customer's
31

1 continued use of the vehicle may be harmful or cause great
2 damage to the vehicle;

3 (6) Fraudulently alter any customer contract,
4 estimate, invoice, or other document;

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

6 (8) Make or authorize in any manner or by any means
7 whatever any written or oral statement which is untrue,
8 deceptive or misleading, and which is known, or which by the
9 exercise of reasonable care should be known, to be untrue,
10 deceptive or misleading;

11 (9) Make false promises of a character likely to
12 influence, persuade, or induce a customer to authorize the
13 repair, service, or maintenance of a motor vehicle;

14 (10) Substitute used, rebuilt, salvaged, or
15 straightened parts for new replacement parts without notice to
16 the motor vehicle owner and to her or his insurer if the cost
17 of repair is to be paid pursuant to an insurance policy and
18 the identity of the insurer or its claims adjuster is
19 disclosed to the motor vehicle repair shop;

20 (11) Cause or allow a customer to sign any work order
21 that does not state the repairs requested by the customer or
22 the automobile's odometer reading at the time of repair;

23 (12) Fail or refuse to give to a customer a copy of
24 any document requiring the customer's signature upon
25 completion or cancellation of the repair work;

26 (13) Willfully depart from or disregard accepted
27 practices and professional standards;

28 (14) Have repair work subcontracted without the
29 knowledge or consent of the customer unless the motor vehicle
30 repair shop or employee thereof demonstrates that the customer
31 could not reasonably have been notified;

1 (15) Conduct the business of motor vehicle repair in a
2 location other than that stated on the registration
3 certificate;

4 (16) Rebuild or restore a rebuilt vehicle without the
5 knowledge of the owner in such a manner that it does not
6 conform to the original vehicle manufacturer's established
7 repair procedures or specifications and allowable tolerances
8 for the particular model and year; or

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

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

14 559.921 Remedies.--

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

18 1. Violated or is operating in violation of any of the
19 provisions of this part 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 part;

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

28 4. Made a material false statement in response to any
29 request or investigation by the department, 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 department may enter an order doing one or more of the
5 following:

6 1. Issuing a notice of noncompliance pursuant to s.
7 120.695.

8 2. Imposing an administrative fine not to exceed
9 \$1,000 per violation for each act that ~~which~~ constitutes a
10 violation of this part or a rule or order, or not to exceed
11 \$15,000 for each such violation against a senior citizen or
12 handicapped person as defined in s. 501.2077 which results in
13 a finding under subparagraph (a)5.

14 3. Directing that the motor vehicle repair shop cease
15 and desist specified activities.

16 4. Refusing to register or revoking or suspending a
17 registration.

18 5. Placing the registrant on probation for a period of
19 time, subject to such conditions as the department may
20 specify.

21 (c) The administrative proceedings which could result
22 in the entry of an order imposing any of the penalties
23 specified in paragraph (b) shall be conducted in accordance
24 with chapter 120.

25 (5)(a) The department or the state attorney, if a
26 violation of this part occurs in his or her judicial circuit,
27 shall be the enforcing authority for purposes of this part and
28 may bring a civil action in circuit court for temporary or
29 permanent injunctive relief and may seek other appropriate
30 civil relief, including a civil penalty not to exceed \$1,000
31 for each violation, or not to exceed \$15,000 for each

1 violation against a senior citizen or handicapped person as
2 defined in s. 501.2077 which results in a finding under
3 subparagraph (4)(a)5.; restitution and damages for injured
4 customers; ; court costs; ; and reasonable attorney's fees.

5 (b) The enforcing authority may terminate any
6 investigation or action upon agreement by the offender to pay
7 a stipulated civil penalty, to make restitution or pay damages
8 to customers, or to satisfy any other relief authorized herein
9 and requested by the department.

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

13 559.928 Registration.--

14 (1) Each seller of travel shall annually register with
15 the department, providing: its legal business or trade name,
16 mailing address, and business locations; the full names,
17 addresses, and telephone numbers, ~~and social security numbers~~
18 of its owners or corporate officers and directors and the
19 Florida agent of the corporation; a statement whether it is a
20 domestic or foreign corporation, its state and date of
21 incorporation, its charter number, and, if a foreign
22 corporation, the date it registered with the State of Florida,
23 and occupational license where applicable; the date on which a
24 seller of travel registered its fictitious name if the seller
25 of travel is operating under a fictitious or trade name; the
26 name of all other corporations, business entities, and trade
27 names through which each owner of the seller of travel
28 operated, was known, or did business as a seller of travel
29 within the preceding 5 years; a list of all authorized
30 independent agents, including the agent's trade name, full
31 name, mailing address, business address, telephone numbers,

1 and social security number; the business location and address
2 of each branch office and full name and address of the manager
3 or supervisor; and proof of purchase of adequate bond or
4 establishment of a letter of credit or certificate of deposit
5 as required in this part. A certificate evidencing proof of
6 registration shall be issued by the department and must be
7 prominently displayed in the seller of travel's primary place
8 of business.

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

1 seller of travel, as that term is used in s. 559.935(3), or
2 the employees of the seller of travel or of such affiliates.

3 Section 11. Section 559.934, Florida Statutes, is
4 amended to read:

5 559.934 Deceptive and unfair trade practice.--Acts,
6 conduct, practices, omissions, failings, misrepresentations,
7 or nondisclosures that ~~which~~ constitute a violation of this
8 part also constitute a deceptive and unfair trade practice for
9 the purpose of ss. 501.201-501.213, the Florida Deceptive and
10 Unfair Trade Practices Act,~~s. 501.201~~ and administrative
11 rules adopted ~~promulgated~~ thereunder.

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

15 570.544 Division of Consumer Services; director;
16 powers; processing of complaints; records.--

17 (1) The director of the Division of Consumer Services
18 shall be appointed by and serve at the pleasure of the
19 commissioner.

20 (2) The Division of Consumer Services may:

21 (a) Conduct studies and make analyses of matters
22 affecting the interests of consumers.

23 (b) Study the operation of laws for consumer
24 protection.

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

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

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

1 (f) Report to the appropriate law enforcement officers
2 any information concerning violation of consumer protection
3 laws.

4 (g) Assist, develop, and conduct programs of consumer
5 education and consumer information through publications and
6 other informational and educational material prepared for
7 dissemination to the public, in order to increase the
8 competence of consumers.

9 (h) Organize and hold conferences on problems
10 affecting consumers.

11 (i) Recommend programs to encourage business and
12 industry to maintain high standards of honesty, fair business
13 practices, and public responsibility in the production,
14 promotion, and sale of consumer goods and services.

15 (3) In addition to the powers, duties, and
16 responsibilities authorized by this or any other chapter, the
17 Division of Consumer Services shall serve as a clearinghouse
18 for matters relating to consumer protection, consumer
19 information, and consumer services generally.

20 (a) The division ~~it~~ shall receive complaints and
21 grievances from consumers and promptly transmit them to that
22 agency most directly concerned in order that the complaint or
23 grievance may be expeditiously handled in the best interests
24 of the complaining consumer.

25 (b) If no agency exists to which the division may
26 transmit a complaint or grievance under paragraph (a), the
27 ~~division of Consumer Services~~ shall seek a settlement of the
28 complaint using formal or informal methods of mediation and
29 conciliation and may seek any other resolution of the matter
30 in accordance with its jurisdiction.

31

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

6 (5)(a) Any agency, office, bureau, division, or board
7 of state government receiving a complaint which deals with
8 consumer fraud or consumer protection and which is not within
9 the jurisdiction of the receiving agency, office, bureau,
10 division, or board originally receiving it, shall immediately
11 refer the complaint to the Division of Consumer Services.

12 (b) Upon receipt of such a complaint, the Division of
13 Consumer Services shall make a determination of the proper
14 jurisdiction to which the complaint relates and shall
15 immediately refer the complaint to the agency, office, bureau,
16 division, or board which does have the proper regulatory or
17 enforcement authority to deal with it.

18 (6)(a) The office or agency to which a complaint has
19 been referred shall within 30 days acknowledge receipt of the
20 complaint and report on the disposition made of the complaint.
21 In the event a complaint has not been disposed of within 30
22 days, the receiving office or agency shall file progress
23 reports with the Division of Consumer Services no less
24 frequently than 30 days until final disposition.

25 (b) The report shall contain at least the following
26 information:

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

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

31

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

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

7 (7)(a) If the office or agency receiving a complaint
8 fails to file a report as contemplated in this section, that
9 failure shall be construed as a denial by the receiving office
10 or agency that it has jurisdiction of the subject matter
11 contained in the complaint.

12 (b) If an office or agency receiving a complaint
13 determines that the matter presents a prima facie case for
14 criminal prosecution or if the complaint cannot be settled at
15 the administrative level, the complaint together with all
16 supporting evidence shall be transmitted to the Department of
17 Legal Affairs or other appropriate enforcement agency with a
18 recommendation for civil or criminal action warranted by the
19 evidence.

20 (8) The records of the Division of Consumer Services
21 are public records. However, customer lists, customer names,
22 and trade secrets are confidential and exempt from the
23 provisions of s. 119.07(1). Disclosure necessary to
24 enforcement procedures shall not be construed as violative of
25 this prohibition.

26 (9) It shall be the duty of the Division of Consumer
27 Services to maintain records and compile summaries and
28 analyses of consumer complaints and their eventual
29 disposition, which data may serve as a basis for
30 recommendations to the Legislature and to state regulatory
31 agencies. This duty includes, but is not limited to, a duty to

1 make reports and offer recommendations to the Commissioner of
2 Agriculture for submission to the Legislature and to state
3 regulatory agencies concerning changes in laws or
4 administrative rules which the division determines may be
5 necessary or warranted based upon an analysis of complaints
6 reviewed under paragraph (3)(b).

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

9 616.242 Safety standards for amusement rides.--

10 (7) DEPARTMENT INSPECTIONS.--

11 (a) In order to obtain an annual permit, an amusement
12 ride must be inspected by the department in accordance with
13 subsection (11) and receive an inspection certificate. In
14 addition, each permanent amusement ride must be inspected
15 semiannually by the department in accordance with subsection
16 (11) and receive an inspection certificate and must receive an
17 inspection certificate when it is relocated; and each
18 temporary amusement ride must be inspected by the department
19 in accordance with subsection (11), and must receive an
20 inspection certificate each time the ride is set up or moved
21 to a new location in this state unless the temporary amusement
22 ride is:

23 1. Used at a private event;

24 2. A simulator, the capacity of which does not exceed
25 16 persons; or

26 3. A kiddie ride used at a public event, provided that
27 there are no more than three amusement rides at the event,
28 none of the kiddie rides at the event exceeds a capacity of 12
29 persons, and the ride has an inspection certificate that was
30 issued within the preceding 6 months. The capacity of a kiddie
31 ride shall be determined by rule of the department, unless the

1 capacity of the ride has been determined and specified by the
2 manufacturer. Any owner of a kiddie ride operating under this
3 exemption is responsible for ensuring that no more than three
4 amusement rides are operated at the event.

5 (b) To obtain a department inspection for an amusement
6 ride, the owner must submit to the department on a form
7 prescribed by rule of the department a written Request for
8 Inspection. The owner must provide the following information
9 to the department:

10 1. The legal name, address, and primary place of
11 business of the owner, the requested inspection date, the date
12 of first intended use or planned opening date, and the date of
13 arrival on site.

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

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

21 (c) For permanent amusement rides, the request for
22 inspection must be received by the department at least 15 days
23 before the requested inspection ~~owner's planned opening~~ date
24 or at least 15 days before the expiration of the prior
25 inspection certificate. If the request for inspection is
26 received less than 15 days before the requested inspection
27 ~~owner's planned opening~~ date or less than 15 days before the
28 expiration of the prior inspection certificate, the department
29 may nevertheless inspect the amusement ride and charge a late
30 fee, as set by rule of the department.

31

1 (d) For temporary amusement rides, the request for
2 inspection must be received by the department for each time
3 the amusement ride is set up or moved to a new location at
4 least 14 days before the requested inspection date ~~of first~~
5 ~~intended use~~ at the new location. If the request for
6 inspection is received less than 14 days before the requested
7 inspection date ~~of first intended use~~ at the new location, the
8 department may nevertheless inspect the amusement ride and
9 charge a late fee, as set by rule of the department.

10 (e) Inspections will be assigned on a first come,
11 first served basis, and overflow requests will be scheduled on
12 the closest date to the date for which the inspection was
13 requested.

14 (f) Upon failure of an amusement ride to pass any
15 department inspection, the owner may request reinspection
16 which shall be submitted in writing to the department on a
17 form prescribed by rule of the department. The department
18 shall reinspect the amusement ride as soon as practical
19 following receipt of the written request for reinspection and
20 any applicable reinspection fees set by rule of the
21 department. Inspections will be assigned on a first come,
22 first served basis, and the overflow requests will be
23 scheduled on the closest date to the date for which the
24 inspection was requested.

25 (g) If the amusement ride passes inspection and the
26 owner pays the applicable fee set by rule of the department,
27 the department shall issue an inspection certificate on a form
28 prescribed by rule of the department.

29 (h) The inspection certificate must contain the date
30 of inspection, the site of the inspection, and the name of the
31 inspector.

1 (i) The inspection certificate is valid only for the
2 site stated on the inspection certificate. The inspection
3 certificate is valid for a period of not more than 6 months
4 from the date of issuance, and is not transferable.

5 (j) The inspection certificate must be displayed on
6 the amusement ride at a place readily visible to patrons of
7 the amusement ride.

8 (k) If the owner fails to timely cancel a Request for
9 Inspection, requests holiday or weekend inspections, or is
10 required to have a replacement USAID plate issued by the
11 department, the owner may be charged an appropriate fee to be
12 set by rule of the department.

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

15 817.568 Criminal use of personal identification
16 information.--

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

18 (a) "Access device" means any card, plate, code,
19 account number, electronic serial number, mobile
20 identification number, personal identification number, or
21 other telecommunications service, equipment, or instrument
22 identifier, or other means of account access that can be used,
23 alone or in conjunction with another access device, to obtain
24 money, goods, services, or any other thing of value, or that
25 can be used to initiate a transfer of funds, other than a
26 transfer originated solely by paper instrument.

27 (b) "Authorization" means empowerment, permission, or
28 competence to act.

29 (c) "Harass" means to engage in conduct directed at a
30 specific person that is intended to cause substantial
31 emotional distress to such person and serves no legitimate

1 purpose. "Harass" does not mean to use personal identification
2 information for accepted commercial purposes. The term does
3 not include constitutionally protected conduct such as
4 organized protests or the use of personal identification
5 information for accepted commercial purposes.

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

10 (e) "Person" means a "person" as defined in s.
11 1.01(3).

12 (f) "Personal identification information" means any
13 name or number that may be used, alone or in conjunction with
14 any other information, to identify a specific individual,
15 including any:

16 1. Name, social security number, date of birth,
17 official state-issued or United States-issued driver's license
18 or identification number, alien registration number,
19 government passport number, employer or taxpayer
20 identification number, Medicaid or food stamp account number,
21 or bank account or credit card number;

22 2. Unique biometric data, such as fingerprint, voice
23 print, retina or iris image, or other unique physical
24 representation;

25 3. Unique electronic identification number, address,
26 or routing code; or

27 4. Telecommunication identifying information or access
28 device.

29 (2)(a) Any person who willfully and without
30 authorization fraudulently uses, or possesses with intent to
31 fraudulently use, personal identification information

1 concerning an individual without first obtaining the ~~that~~
2 ~~individual's~~ consent of the individual or, if the individual
3 is deceased, the individual's estate, commits the offense of
4 fraudulent use of personal identification information, which
5 is a felony of the third degree, punishable as provided in s.
6 775.082, s. 775.083, or s. 775.084.

7 (b) Any person who willfully and without authorization
8 fraudulently uses personal identification information
9 concerning an individual without first obtaining the ~~that~~
10 ~~individual's~~ consent of the individual or, if the individual
11 is deceased, the individual's estate commits a felony of the
12 second degree, punishable as provided in s. 775.082, s.
13 775.083, or s. 775.084, if the pecuniary benefit, the value of
14 the services received, the payment sought to be avoided, or
15 the amount of the injury or fraud perpetrated is \$5,000 or
16 more or if the person fraudulently uses the personal
17 identification information of 10 or more individuals without
18 their consent or, if deceased, the consent of their estates.
19 Notwithstanding any other provision of law, the court shall
20 sentence any person convicted of committing the offense
21 described in this paragraph to a mandatory minimum sentence of
22 3 years' imprisonment.

23 (c) Any person who willfully and without authorization
24 fraudulently uses personal identification information
25 concerning an individual without first obtaining the ~~that~~
26 ~~individual's~~ consent of the individual or, if deceased, the
27 individual's estate commits a felony of the first degree,
28 punishable as provided in s. 775.082, s. 775.083, or s.
29 775.084, if the pecuniary benefit, the value of the services
30 received, the payment sought to be avoided, or the amount of
31 the injury or fraud perpetrated is \$50,000 or more or if the

1 person fraudulently uses the personal identification
2 information of 20 or more individuals without their consent
3 or, if deceased, the consent of their estates. Notwithstanding
4 any other provision of law, the court shall sentence any
5 person convicted of committing the offense described in this
6 paragraph:

7 1. To a mandatory minimum sentence of 5 years'
8 imprisonment.

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

16 (3) Neither paragraph (2)(b) nor paragraph (2)(c)
17 prevents a court from imposing a greater sentence of
18 incarceration as authorized by law. If the minimum mandatory
19 terms of imprisonment imposed under paragraph (2)(b) or
20 paragraph (2)(c) exceed the maximum sentences authorized under
21 s. 775.082, s. 775.084, or the Criminal Punishment Code under
22 chapter 921, the mandatory minimum sentence must be imposed.
23 If the mandatory minimum terms of imprisonment under paragraph
24 (2)(b) or paragraph (2)(c) are less than the sentence that
25 could be imposed under s. 775.082, s. 775.084, or the Criminal
26 Punishment Code under chapter 921, the sentence imposed by the
27 court must include the mandatory minimum term of imprisonment
28 as required by paragraph (2)(b) or paragraph (2)(c).

29 (4) Any person who willfully and without authorization
30 possesses, uses, or attempts to use personal identification
31 information concerning an individual without first obtaining

1 that individual's consent, and who does so for the purpose of
2 harassing that individual, commits the offense of harassment
3 by use of personal identification information, which is a
4 misdemeanor of the first degree, punishable as provided in s.
5 775.082 or s. 775.083.

6 (5) If an offense prohibited under this section was
7 facilitated or furthered by the use of a public record, as
8 defined in s. 119.011, the offense is reclassified to the next
9 higher degree as follows:

10 (a) A misdemeanor of the first degree is reclassified
11 as a felony of the third degree.

12 (b) A felony of the third degree is reclassified as a
13 felony of the second degree.

14 (c) A felony of the second degree is reclassified as a
15 felony of the first degree.

16
17 For purposes of sentencing under chapter 921 and incentive
18 gain-time eligibility under chapter 944, a felony offense that
19 is reclassified under this subsection is ranked one level
20 above the ranking under s. 921.0022 of the felony offense
21 committed, and a misdemeanor offense that is reclassified
22 under this subsection is ranked in level 2 of the offense
23 severity ranking chart in s. 921.0022.

24 (6) Any person who willfully and without authorization
25 fraudulently uses personal identification information
26 concerning an individual who is less than 18 years of age
27 without first obtaining the consent of that individual or of
28 his or her legal guardian 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 (7) Any person who is in the relationship of parent or
2 legal guardian, or who otherwise exercises custodial authority
3 over an individual who is less than 18 years of age, who
4 willfully and fraudulently uses personal identification
5 information of that individual commits a felony of the second
6 degree, punishable as provided in s. 775.082, s. 775.083, or
7 s. 775.084.

8 (8) This section does not prohibit any lawfully
9 authorized investigative, protective, or intelligence activity
10 of a law enforcement agency of this state or any of its
11 political subdivisions, of any other state or its political
12 subdivisions, or of the Federal Government or its political
13 subdivisions.

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

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

29 (10) Prosecutions for violations of this section may
30 be brought on behalf of the state by any state attorney or by
31 the statewide prosecutor.

1 (11) The Legislature finds that, in the absence of
2 evidence to the contrary, the location where a victim gives or
3 fails to give consent to the use of personal identification
4 information is the county where the victim generally resides
5 or, in a case in which the victim is the estate of a deceased
6 individual, where the deceased individual generally resided.

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

14 (13) A prosecution of an offense prohibited under
15 subsection (2), subsection (6), or subsection (7) must be
16 commenced within 3 years after the offense occurred. However,
17 a prosecution may be commenced within 1 year after discovery
18 of the offense by an aggrieved party, or by a person who has a
19 legal duty to represent the aggrieved party and who is not a
20 party to the offense, if such prosecution is commenced within
21 5 years after the violation occurred.

22 Section 15. Effective October 1, 2004, subsections
23 (1), (3), (4), and (5) of section 849.094, Florida Statutes,
24 are amended to read:

25 849.094 Game promotion in connection with sale of
26 consumer products or services.--

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

28 (a) "Game promotion" means, but is not limited to, a
29 contest, game of chance, or gift enterprise, conducted within
30 or throughout the state and other states in connection with
31 the sale of consumer products or services, and in which the

1 elements of chance and prize are present. However, "game
2 promotion" shall not be construed to apply to bingo games
3 conducted pursuant to s. 849.0931.

4 (b) "Operator" means any person, firm, corporation, or
5 association on whose behalf a game promotion is conducted ~~or~~
6 ~~agent or employee thereof who promotes, operates, or conducts~~
7 ~~a game promotion~~, except any charitable nonprofit
8 organization.

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

29 (4)(a) Every operator of such a game promotion in
30 which the total announced value of the prizes offered is
31 greater than \$5,000 shall establish a trust account, in a

1 national or state-chartered financial institution, with a
2 balance sufficient to pay or purchase the total value of all
3 prizes offered. On a form supplied by the Department of
4 Agriculture and Consumer Services, an official of the
5 financial institution holding the trust account shall set
6 forth the dollar amount of the trust account, the identity of
7 the entity or individual establishing the trust account, and
8 the name of the game promotion for which the trust account has
9 been established. Such form 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. In lieu of
13 establishing such trust account, the operator may obtain a
14 surety bond in an amount equivalent to the total value of all
15 prizes offered; and such bond shall be filed with the
16 Department of Agriculture and Consumer Services at least 7
17 calendar days, excluding weekends and legal holidays,in
18 advance of the commencement of the game promotion.

19 1. The moneys held in the trust account may be
20 withdrawn in order to pay the prizes offered only upon
21 certification to the Department of Agriculture and Consumer
22 Services of the name of the winner or winners and the amount
23 of the prize or prizes and the value thereof.

24 2. If the operator of a game promotion has obtained a
25 surety bond in lieu of establishing a trust account, the
26 amount of the surety bond shall equal at all times the total
27 amount of the prizes offered.

28 (b) The Department of Agriculture and Consumer
29 Services may waive the provisions of this subsection for any
30 operator who has conducted game promotions in the state for
31 not less than 5 consecutive years and who has not had any

1 civil, criminal, or administrative action instituted against
2 him or her by the state or an agency of the state for
3 violation of this section within that 5-year period. Such
4 waiver may be revoked upon the commission of a violation of
5 this section by such operator, as determined by the Department
6 of Agriculture and Consumer Services.

7 (5) Every operator of a game promotion in which the
8 total announced value of the prizes offered is greater than
9 \$5,000 shall provide the Department of Agriculture and
10 Consumer Services with a certified list of the names and
11 addresses of all persons, whether from this state or from
12 another state, who have won prizes which have a value of more
13 than ~~\$100~~\$25, the value of such prizes, and the dates when
14 the prizes were won within 60 calendar days after such winners
15 have been finally determined. If there is not a winner, the
16 operator shall provide written notice to the department within
17 60 calendar days after such determination has been made.The
18 operator shall provide a copy of the list of winners, without
19 charge, to any person who requests it. In lieu of the
20 foregoing, the operator of a game promotion may, at his or her
21 option, publish the same information about the winners in a
22 Florida newspaper of general circulation within 60 calendar
23 days after such winners have been determined and shall provide
24 to the Department of Agriculture and Consumer Services a
25 certified copy of the publication containing the information
26 about the winners. The operator of a game promotion is not
27 required to notify a winner by mail or by telephone when the
28 winner is already in possession of a game card from which the
29 winner can determine that he or she has won a designated
30 prize. All winning entries shall be held by the operator for
31

1 a period of 90 calendar days after the close or completion of
2 the game.

3 Section 16. Effective October 1, 2004, for the purpose
4 of incorporating the amendment made by this act to section
5 817.568, Florida Statutes, in references thereto, paragraphs
6 (d), (e), (h), and (i) of subsection (3) of section 921.0022,
7 Florida Statutes, are reenacted to read:

8 921.0022 Criminal Punishment Code; offense severity
9 ranking chart.--

10 (3) OFFENSE SEVERITY RANKING CHART

11	12 Florida	13 Felony	
14	15 Statute	16 Degree	17 Description
18			(d) LEVEL 4
19	316.1935(3)	2nd	Driving at high speed or with 20 wanton disregard for safety while 21 fleeing or attempting to elude 22 law enforcement officer who is in 23 a marked patrol vehicle with 24 siren and lights activated.
25	499.0051(1)	3rd	Failure to maintain or deliver 26 pedigree papers.
27	499.0051(2)	3rd	Failure to authenticate pedigree 28 papers.
29	499.0051(6)	2nd	Sale or delivery, or possession 30 with intent to sell, contraband 31 legend drugs.

1	784.07(2)(b)	3rd	Battery of law enforcement
2			officer, firefighter, intake
3			officer, etc.
4	784.074(1)(c)	3rd	Battery of sexually violent
5			predators facility staff.
6	784.075	3rd	Battery on detention or
7			commitment facility staff.
8	784.078	3rd	Battery of facility employee by
9			throwing, tossing, or expelling
10			certain fluids or materials.
11	784.08(2)(c)	3rd	Battery on a person 65 years of
12			age or older.
13	784.081(3)	3rd	Battery on specified official or
14			employee.
15	784.082(3)	3rd	Battery by detained person on
16			visitor or other detainee.
17	784.083(3)	3rd	Battery on code inspector.
18	784.085	3rd	Battery of child by throwing,
19			tossing, projecting, or expelling
20			certain fluids or materials.
21	787.03(1)	3rd	Interference with custody;
22			wrongly takes child from
23			appointed guardian.
24	787.04(2)	3rd	Take, entice, or remove child
25			beyond state limits with criminal
26			intent pending custody
27			proceedings.
28			
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1	787.04(3)	3rd	Carrying child beyond state lines
2			with criminal intent to avoid
3			producing child at custody
4			hearing or delivering to
5			designated person.
6	790.115(1)	3rd	Exhibiting firearm or weapon
7			within 1,000 feet of a school.
8	790.115(2)(b)	3rd	Possessing electric weapon or
9			device, destructive device, or
10			other weapon on school property.
11	790.115(2)(c)	3rd	Possessing firearm on school
12			property.
13	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
14			offender less than 18 years.
15	810.02(4)(a)	3rd	Burglary, or attempted burglary,
16			of an unoccupied structure;
17			unarmed; no assault or battery.
18	810.02(4)(b)	3rd	Burglary, or attempted burglary,
19			of an unoccupied conveyance;
20			unarmed; no assault or battery.
21	810.06	3rd	Burglary; possession of tools.
22	810.08(2)(c)	3rd	Trespass on property, armed with
23			firearm or dangerous weapon.
24	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
25			or more but less than \$20,000.
26	812.014		
27	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
28			firearm, motor vehicle,
29			livestock, etc.
30			
31			

1	812.0195(2)	3rd	Dealing in stolen property by use
2			of the Internet; property stolen
3			\$300 or more.
4	817.563(1)	3rd	Sell or deliver substance other
5			than controlled substance agreed
6			upon, excluding s. 893.03(5)
7			drugs.
8	817.568(2)(a)	3rd	Fraudulent use of personal
9			identification information.
10	817.625(2)(a)	3rd	Fraudulent use of scanning device
11			or reencoder.
12	828.125(1)	2nd	Kill, maim, or cause great bodily
13			harm or permanent breeding
14			disability to any registered
15			horse or cattle.
16	837.02(1)	3rd	Perjury in official proceedings.
17	837.021(1)	3rd	Make contradictory statements in
18			official proceedings.
19	838.022	3rd	Official misconduct.
20	839.13(2)(a)	3rd	Falsifying records of an
21			individual in the care and
22			custody of a state agency.
23	839.13(2)(c)	3rd	Falsifying records of the
24			Department of Children and Family
25			Services.
26	843.021	3rd	Possession of a concealed
27			handcuff key by a person in
28			custody.
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1	843.025	3rd	Deprive law enforcement,
2			correctional, or correctional
3			probation officer of means of
4			protection or communication.
5	843.15(1)(a)	3rd	Failure to appear while on bail
6			for felony (bond estreatment or
7			bond jumping).
8	874.05(1)	3rd	Encouraging or recruiting another
9			to join a criminal street gang.
10	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
11			893.03(1)(a), (b), or (d),
12			(2)(a), (2)(b), or (2)(c)4.
13			drugs).
14	914.14(2)	3rd	Witnesses accepting bribes.
15	914.22(1)	3rd	Force, threaten, etc., witness,
16			victim, or informant.
17	914.23(2)	3rd	Retaliation against a witness,
18			victim, or informant, no bodily
19			injury.
20	918.12	3rd	Tampering with jurors.
21	934.215	3rd	Use of two-way communications
22			device to facilitate commission
23			of a crime.
24			(e) LEVEL 5
25	316.027(1)(a)	3rd	Accidents involving personal
26			injuries, failure to stop;
27			leaving scene.
28	316.1935(4)	2nd	Aggravated fleeing or eluding.
29			
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1	322.34(6)	3rd	Careless operation of motor
2			vehicle with suspended license,
3			resulting in death or serious
4			bodily injury.
5	327.30(5)	3rd	Vessel accidents involving
6			personal injury; leaving scene.
7	381.0041		
8	(11)(b)	3rd	Donate blood, plasma, or organs
9			knowing HIV positive.
10	440.10(1)(g)	2nd	Failure to obtain workers'
11			compensation coverage.
12	440.105(5)	2nd	Unlawful solicitation for the
13			purpose of making workers'
14			compensation claims.
15	440.381(2)	2nd	Submission of false, misleading,
16			or incomplete information with
17			the purpose of avoiding or
18			reducing workers' compensation
19			premiums.
20	624.401(4)(b)2.	2nd	Transacting insurance without a
21			certificate or authority; premium
22			collected \$20,000 or more but
23			less than \$100,000.
24	626.902(1)(c)	2nd	Representing an unauthorized
25			insurer; repeat offender.
26	790.01(2)	3rd	Carrying a concealed firearm.
27	790.162	2nd	Threat to throw or discharge
28			destructive device.
29	790.163(1)	2nd	False report of deadly explosive
30			or weapon of mass destruction.
31			

1	790.221(1)	2nd	Possession of short-barreled
2			shotgun or machine gun.
3	790.23	2nd	Felons in possession of firearms
4			or electronic weapons or devices.
5	800.04(6)(c)	3rd	Lewd or lascivious conduct;
6			offender less than 18 years.
7	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
8			offender 18 years or older.
9	806.111(1)	3rd	Possess, manufacture, or dispense
10			fire bomb with intent to damage
11			any structure or property.
12	812.0145(2)(b)	2nd	Theft from person 65 years of age
13			or older; \$10,000 or more but
14			less than \$50,000.
15	812.015(8)	3rd	Retail theft; property stolen is
16			valued at \$300 or more and one or
17			more specified acts.
18	812.019(1)	2nd	Stolen property; dealing in or
19			trafficking in.
20	812.131(2)(b)	3rd	Robbery by sudden snatching.
21	812.16(2)	3rd	Owning, operating, or conducting
22			a chop shop.
23	817.034(4)(a)2.	2nd	Communications fraud, value
24			\$20,000 to \$50,000.
25	817.234(11)(b)	2nd	Insurance fraud; property value
26			\$20,000 or more but less than
27			\$100,000.
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1	817.2341(1),		
2	(2)(a)&(3)(a)	3rd	Filing false financial
3			statements, making false entries
4			of material fact or false
5			statements regarding property
6			values relating to the solvency
7			of an insuring entity.
8	817.568(2)(b)	2nd	Fraudulent use of personal
9			identification information; value
10			of benefit, services received,
11			payment avoided, or amount of
12			injury or fraud, \$5,000 or more
13			or use of personal identification
14			information of 10 or more
15			individuals.
16	817.625(2)(b)	2nd	Second or subsequent fraudulent
17			use of scanning device or
18			reencoder.
19	825.1025(4)	3rd	Lewd or lascivious exhibition in
20			the presence of an elderly person
21			or disabled adult.
22	827.071(4)	2nd	Possess with intent to promote
23			any photographic material, motion
24			picture, etc., which includes
25			sexual conduct by a child.
26	839.13(2)(b)	2nd	Falsifying records of an
27			individual in the care and
28			custody of a state agency
29			involving great bodily harm or
30			death.
31			

1	843.01	3rd	Resist officer with violence to
2			person; resist arrest with
3			violence.
4	874.05(2)	2nd	Encouraging or recruiting another
5			to join a criminal street gang;
6			second or subsequent offense.
7	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
8			cocaine (or other s.
9			893.03(1)(a), (1)(b), (1)(d),
10			(2)(a), (2)(b), or (2)(c)4.
11			drugs).
12	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
13			cannabis (or other s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs) within 1,000
18			feet of a child care facility,
19			school, or state, county, or
20			municipal park or publicly owned
21			recreational facility or
22			community center.
23	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
24			cocaine (or other s.
25			893.03(1)(a), (1)(b), (1)(d),
26			(2)(a), (2)(b), or (2)(c)4.
27			drugs) within 1,000 feet of
28			university.
29			
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1	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
2			cannabis or other drug prohibited
3			under s. 893.03(1)(c), (2)(c)1.,
4			(2)(c)2., (2)(c)3., (2)(c)5.,
5			(2)(c)6., (2)(c)7., (2)(c)8.,
6			(2)(c)9., (3), or (4) within
7			1,000 feet of property used for
8			religious services or a specified
9			business site.
10	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
11			cocaine (or other s.
12			893.03(1)(a), (1)(b), (1)(d), or
13			(2)(a), (2)(b), or (2)(c)4.
14			drugs) within 1,000 feet of
15			public housing facility.
16	893.13(4)(b)	2nd	Deliver to minor cannabis (or
17			other s. 893.03(1)(c), (2)(c)1.,
18			(2)(c)2., (2)(c)3., (2)(c)5.,
19			(2)(c)6., (2)(c)7., (2)(c)8.,
20			(2)(c)9., (3), or (4) drugs).
21			(h) LEVEL 8
22	316.193		
23	(3)(c)3.a.	2nd	DUI manslaughter.
24	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
25	499.0051(7)	1st	Forgery of prescription or legend
26			drug labels.
27	499.0052	1st	Trafficking in contraband legend
28			drugs.
29			
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1	560.123(8)(b)2.	2nd	Failure to report currency or
2			payment instruments totaling or
3			exceeding \$20,000, but less than
4			\$100,000 by money transmitter.
5	560.125(5)(b)	2nd	Money transmitter business by
6			unauthorized person, currency or
7			payment instruments totaling or
8			exceeding \$20,000, but less than
9			\$100,000.
10	655.50(10)(b)2.	2nd	Failure to report financial
11			transactions totaling or
12			exceeding \$20,000, but less than
13			\$100,000 by financial
14			institutions.
15	777.03(2)(a)	1st	Accessory after the fact, capital
16			felony.
17	782.04(4)	2nd	Killing of human without design
18			when engaged in act or attempt of
19			any felony other than arson,
20			sexual battery, robbery,
21			burglary, kidnapping, aircraft
22			piracy, or unlawfully discharging
23			bomb.
24	782.051(2)	1st	Attempted felony murder while
25			perpetrating or attempting to
26			perpetrate a felony not
27			enumerated in s. 782.04(3).
28	782.071(1)(b)	1st	Committing vehicular homicide and
29			failing to render aid or give
30			information.
31			

1	782.072(2)	1st	Committing vessel homicide and
2			failing to render aid or give
3			information.
4	790.161(3)	1st	Discharging a destructive device
5			which results in bodily harm or
6			property damage.
7	794.011(5)	2nd	Sexual battery, victim 12 years
8			or over, offender does not use
9			physical force likely to cause
10			serious injury.
11	800.04(4)	2nd	Lewd or lascivious battery.
12	806.01(1)	1st	Maliciously damage dwelling or
13			structure by fire or explosive,
14			believing person in structure.
15	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
16	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
17			or dangerous weapon.
18	810.02(2)(c)	1st	Burglary of a dwelling or
19			structure causing structural
20			damage or \$1,000 or more property
21			damage.
22	812.13(2)(b)	1st	Robbery with a weapon.
23	812.135(2)	1st	Home-invasion robbery.
24	817.568(6)	2nd	Fraudulent use of personal
25			identification information of an
26			individual under the age of 18.
27	825.102(2)	2nd	Aggravated abuse of an elderly
28			person or disabled adult.
29	825.1025(2)	2nd	Lewd or lascivious battery upon
30			an elderly person or disabled
31			adult.

1	825.103(2)(a)	1st	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$100,000 or more.
4	837.02(2)	2nd	Perjury in official proceedings
5			relating to prosecution of a
6			capital felony.
7	837.021(2)	2nd	Making contradictory statements
8			in official proceedings relating
9			to prosecution of a capital
10			felony.
11	860.121(2)(c)	1st	Shooting at or throwing any
12			object in path of railroad
13			vehicle resulting in great bodily
14			harm.
15	860.16	1st	Aircraft piracy.
16	893.13(1)(b)	1st	Sell or deliver in excess of 10
17			grams of any substance specified
18			in s. 893.03(1)(a) or (b).
19	893.13(2)(b)	1st	Purchase in excess of 10 grams of
20			any substance specified in s.
21			893.03(1)(a) or (b).
22	893.13(6)(c)	1st	Possess in excess of 10 grams of
23			any substance specified in s.
24			893.03(1)(a) or (b).
25	893.135(1)(a)2.	1st	Trafficking in cannabis, more
26			than 2,000 lbs., less than 10,000
27			lbs.
28	893.135		
29	(1)(b)1.b.	1st	Trafficking in cocaine, more than
30			200 grams, less than 400 grams.
31			

1	893.135		
2	(1)(c)1.b.	1st	Trafficking in illegal drugs,
3			more than 14 grams, less than 28
4			grams.
5	893.135		
6	(1)(d)1.b.	1st	Trafficking in phencyclidine,
7			more than 200 grams, less than
8			400 grams.
9	893.135		
10	(1)(e)1.b.	1st	Trafficking in methaqualone, more
11			than 5 kilograms, less than 25
12			kilograms.
13	893.135		
14	(1)(f)1.b.	1st	Trafficking in amphetamine, more
15			than 28 grams, less than 200
16			grams.
17	893.135		
18	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
19			grams or more, less than 28
20			grams.
21	893.135		
22	(1)(h)1.b.	1st	Trafficking in
23			gamma-hydroxybutyric acid (GHB),
24			5 kilograms or more, less than 10
25			kilograms.
26	893.135		
27	(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5
28			kilograms or more, less than 10
29			kilograms.
30			
31			

1	893.135		
2	(1)(k)2.b.	1st	Trafficking in Phenethylamines,
3			200 grams or more, less than 400
4			grams.
5	895.03(1)	1st	Use or invest proceeds derived
6			from pattern of racketeering
7			activity.
8	895.03(2)	1st	Acquire or maintain through
9			racketeering activity any
10			interest in or control of any
11			enterprise or real property.
12	895.03(3)	1st	Conduct or participate in any
13			enterprise through pattern of
14			racketeering activity.
15	896.101(5)(b)	2nd	Money laundering, financial
16			transactions totaling or
17			exceeding \$20,000, but less than
18			\$100,000.
19	896.104(4)(a)2.	2nd	Structuring transactions to evade
20			reporting or registration
21			requirements, financial
22			transactions totaling or
23			exceeding \$20,000 but less than
24			\$100,000.
25			(i) LEVEL 9
26	316.193		
27	(3)(c)3.b.	1st	DUI manslaughter; failing to
28			render aid or give information.
29	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
30			render aid or give information.
31			

1	499.0053	1st	Sale or purchase of contraband
2			legend drugs resulting in great
3			bodily harm.
4	560.123(8)(b)3.	1st	Failure to report currency or
5			payment instruments totaling or
6			exceeding \$100,000 by money
7			transmitter.
8	560.125(5)(c)	1st	Money transmitter business by
9			unauthorized person, currency, or
10			payment instruments totaling or
11			exceeding \$100,000.
12	655.50(10)(b)3.	1st	Failure to report financial
13			transactions totaling or
14			exceeding \$100,000 by financial
15			institution.
16	775.0844	1st	Aggravated white collar crime.
17	782.04(1)	1st	Attempt, conspire, or solicit to
18			commit premeditated murder.
19	782.04(3)	1st,PBL	Accomplice to murder in
20			connection with arson, sexual
21			battery, robbery, burglary, and
22			other specified felonies.
23	782.051(1)	1st	Attempted felony murder while
24			perpetrating or attempting to
25			perpetrate a felony enumerated in
26			s. 782.04(3).
27	782.07(2)	1st	Aggravated manslaughter of an
28			elderly person or disabled adult.
29	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
30			reward or as a shield or hostage.
31			

1	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
2			or facilitate commission of any
3			felony.
4	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
5			interfere with performance of any
6			governmental or political
7			function.
8	787.02(3)(a)	1st	False imprisonment; child under
9			age 13; perpetrator also commits
10			aggravated child abuse, sexual
11			battery, or lewd or lascivious
12			battery, molestation, conduct, or
13			exhibition.
14	790.161	1st	Attempted capital destructive
15			device offense.
16	790.166(2)	1st,PBL	Possessing, selling, using, or
17			attempting to use a weapon of
18			mass destruction.
19	794.011(2)	1st	Attempted sexual battery; victim
20			less than 12 years of age.
21	794.011(2)	Life	Sexual battery; offender younger
22			than 18 years and commits sexual
23			battery on a person less than 12
24			years.
25	794.011(4)	1st	Sexual battery; victim 12 years
26			or older, certain circumstances.
27	794.011(8)(b)	1st	Sexual battery; engage in sexual
28			conduct with minor 12 to 18 years
29			by person in familial or
30			custodial authority.
31			

1	800.04(5)(b)	1st	Lewd or lascivious molestation;
2			victim less than 12 years;
3			offender 18 years or older.
4	812.13(2)(a)	1st,PBL	Robbery with firearm or other
5			deadly weapon.
6	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
7			deadly weapon.
8	817.568(7)	2nd,PBL	Fraudulent use of personal
9			identification information of an
10			individual under the age of 18 by
11			his or her parent, legal
12			guardian, or person exercising
13			custodial authority.
14	827.03(2)	1st	Aggravated child abuse.
15	847.0145(1)	1st	Selling, or otherwise
16			transferring custody or control,
17			of a minor.
18	847.0145(2)	1st	Purchasing, or otherwise
19			obtaining custody or control, of
20			a minor.
21	859.01	1st	Poisoning or introducing
22			bacteria, radioactive materials,
23			viruses, or chemical compounds
24			into food, drink, medicine, or
25			water with intent to kill or
26			injure another person.
27	893.135	1st	Attempted capital trafficking
28			offense.
29	893.135(1)(a)3.	1st	Trafficking in cannabis, more
30			than 10,000 lbs.
31			

1	893.135		
2	(1)(b)1.c.	1st	Trafficking in cocaine, more than
3			400 grams, less than 150
4			kilograms.
5	893.135		
6	(1)(c)1.c.	1st	Trafficking in illegal drugs,
7			more than 28 grams, less than 30
8			kilograms.
9	893.135		
10	(1)(d)1.c.	1st	Trafficking in phencyclidine,
11			more than 400 grams.
12	893.135		
13	(1)(e)1.c.	1st	Trafficking in methaqualone, more
14			than 25 kilograms.
15	893.135		
16	(1)(f)1.c.	1st	Trafficking in amphetamine, more
17			than 200 grams.
18	893.135		
19	(1)(h)1.c.	1st	Trafficking in
20			gamma-hydroxybutyric acid (GHB),
21			10 kilograms or more.
22	893.135		
23	(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10
24			kilograms or more.
25	893.135		
26	(1)(k)2.c.	1st	Trafficking in Phenethylamines,
27			400 grams or more.
28	896.101(5)(c)	1st	Money laundering, financial
29			instruments totaling or exceeding
30			\$100,000.
31			

1 896.104(4)(a)3. 1st Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions totaling or
5 exceeding \$100,000.

6 Section 17. Health-related discount cards; regulation
7 of sellers; penalty.--

8 (1) A person may not sell, market, promote, advertise,
9 or distribute a card or other purchasing mechanism or device
10 that is not insurance and that purports to offer discounts or
11 access to discounts from a health care provider for
12 health-related purchases or from a pharmacy for purchases of
13 prescription drugs, unless:

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

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

19 (c) The person provides documentation to the
20 Department of Financial Services that the discounts are
21 specifically authorized and the person has a separate contract
22 with each health care provider, health provider network,
23 pharmacy, or pharmacy chain listed in conjunction with the
24 card or other purchasing mechanism or device; and

25 (d) The discounts or access to discounts offered, or
26 the range of discounts or access to the range of discounts
27 offered, are not misleading, deceptive, or fraudulent.

28
29 The registration fee under paragraph (a) is \$50 per year per
30 registrant. All amounts collected shall be deposited in the
31 General Revenue Fund.

1 (2)(a) A person who sells, markets, promotes,
2 advertises, or distributes a card or other purchasing
3 mechanism or device that is not insurance and that purports to
4 offer discounts or access to discounts from a health care
5 provider for health-related purchases or from a pharmacy for
6 purchases of prescription drugs in this state must designate a
7 resident of this state as an agent for service of process and
8 register the agent with the Secretary of State.

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

27 (3) Except as provided in subsection (4), a person who
28 violates this section commits a misdemeanor of the first
29 degree, punishable as provided in section 775.082 or section
30 775.083, Florida Statutes.

31

1 (4) A person who violates this section and who has
2 been previously convicted of or adjudicated delinquent for any
3 violation of this section two or more times commits a felony
4 of the third degree, punishable as provided in section
5 775.082, section 775.083, or section 775.084, Florida
6 Statutes.

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

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

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

15 Section 18. For the 2004-2005 fiscal year, the sum of
16 \$100,000 is appropriated from the General Inspection Trust
17 Fund to the Department of Agriculture and Consumer Services
18 for the purpose of providing financial assistance for
19 individuals to undertake technical training or courses of
20 study in motor vehicle repair as provided in section 559.922,
21 Florida Statutes.

22 Section 19. For the 2004-2005 fiscal year, the sum of
23 \$100,000 is appropriated from the General Revenue Fund to the
24 Department of Agriculture and Consumer Services to implement
25 the consumer education pilot program, as created by this act.

26 Section 20. (1) For fiscal year 2004-2005, the sum of
27 \$255,391 from the General Revenue Fund and seven
28 full-time-equivalent positions are appropriated to the
29 Department of Agriculture and Consumer Services for the
30 purpose of mediating complaints in nonregulated areas under
31 section 570.544, Florida Statutes.

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

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

10
11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 CS/Senate Bill 1314

14 CS for CS for SB 1314 is different from CS for SB 1314 in that
15 it revises a requirement that game rules and regulations be
16 published in all advertising copy associated with a game
17 promotion to instead require publication of the material terms
18 of such rules and regulations in all advertising copy.
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