

By Senator Lynn

7-321D-05

1 A bill to be entitled
 2 An act relating to consumer protection;
 3 amending s. 493.6303, F.S.; revising training
 4 requirements for obtaining a Class "D" license;
 5 requiring a minimum number of hours of training
 6 in terrorism awareness or other training
 7 prescribed by the Department of Agriculture and
 8 Consumer Services; providing a timeframe for
 9 submitting proof of having completed the
 10 training; revising the number of training hours
 11 required; amending s. 501.059, F.S.; redefining
 12 the term "telephonic sales call" to provide
 13 that the term applies to sales of any goods or
 14 services; redefining the term "consumer goods
 15 or services" to remove the term "consumer" and
 16 include property used for business purposes;
 17 redefining the term "consumer," to conform;
 18 redefining the term "merchant" to include the
 19 offering of goods and services; redefining the
 20 term "doing business in this state" to include
 21 calls to telephone numbers in this state;
 22 requiring a telephone solicitor to identify
 23 himself or herself when calling any telephone
 24 number; adding a business to those who may
 25 subscribe to the "no sales solicitation calls"
 26 listing of the Department of Agriculture and
 27 Consumer Services; prohibiting the transmission
 28 of facsimile documents under certain
 29 circumstances; providing for attorney's fees
 30 and for the recovery of certain litigation
 31 expenses by the department and the Department

1 of Legal Affairs; repealing ss. 546.001,
2 546.002, 546.003, 546.004, 546.006, and
3 546.008, F.S., relating to the "Amusement Ride
4 and Attraction Insurance Act"; amending s.
5 559.801, F.S.; redefining the term "business
6 opportunity" for purposes of the "Sale of
7 Business Opportunities Act"; amending s.
8 559.920, F.S.; redefining actions by motor
9 vehicle repair shops or employees which are
10 unlawful; amending s. 559.928, F.S.; revising
11 information to be submitted for registration as
12 a seller of travel and information submitted by
13 independent agents; requiring the payment of an
14 annual fee; amending s. 616.242, F.S.; deleting
15 provisions authorizing the owner of an
16 amusement ride to maintain liability protection
17 in the form of a surety bond; exempting certain
18 governmental entities from a requirement to
19 maintain liability protection covering
20 amusement rides; amending s. 849.094, F.S.;
21 redefining the term "operator" for purposes of
22 the regulation of game promotions; providing an
23 effective date.

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

26
27 Section 1. Section 493.6303, Florida Statutes, is
28 amended to read:

29 493.6303 License requirements.--In addition to the
30 license requirements set forth elsewhere in this chapter, each
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1 individual or agency shall comply with the following
2 additional requirements:

3 (1) Each agency or branch office shall designate a
4 minimum of one appropriately licensed individual to act as
5 manager, directing the activities of the Class "D" employees.

6 (2) An applicant for a Class "MB" license shall have 2
7 years of lawfully gained, verifiable, full-time experience, or
8 training in:

9 (a) Security work or related fields of work that
10 provided equivalent experience or training;

11 (b) Experience described in paragraph (a) for 1 year
12 and experience described in paragraph (c) for 1 year;

13 (c) No more than 1 year using:

14 1. Either college coursework related to criminal
15 justice, criminology, or law enforcement administration; or

16 2. Successfully completed law enforcement-related
17 training received from any federal, state, county, or
18 municipal agency; or

19 (d) Experience described in paragraph (a) for 1 year
20 and work in a managerial or supervisory capacity for 1 year.

21 (3) An applicant for a Class "M" license shall qualify
22 for licensure as a Class "MA" manager as outlined under s.
23 493.6203(2) and as a Class "MB" manager as outlined under
24 subsection (2).

25 (4)(a) Effective January 1, 2006 ~~October 1, 1994~~, an
26 applicant for a Class "D" license must complete ~~have completed~~
27 a minimum of 44 ~~40~~ hours of professional training administered
28 by at a school or training facility licensed by the
29 department. The department shall by rule establish the general
30 content and number of hours of all the training. Such training
31 must include at least 8 hours of instruction in terrorism

1 awareness or other special training prescribed by the
2 department.

3 (b) An applicant may fulfill the training requirement
4 prescribed in paragraph (a) by submitting proof of:

5 1. Successful completion of the total number of
6 required 40 hours of training before initial application for a
7 Class "D" license; or

8 2. Successful completion of 24 hours of training
9 before initial application ~~for~~, and the remaining 16 hours of
10 training within 180 days after the date upon the first
11 application is submitted for renewal of, a Class "D" license.

12 If documentation of completion of the required training is not
13 submitted within the specified timeframe, the individual's
14 license is automatically suspended until such time as proof of
15 the required training is provided to the department. However,
16 Individuals licensed before October 1, 1994, or individuals
17 who have successfully completed 40 hours of professional
18 training before January 1, 2006, at a school or training
19 facility licensed by the department, are exempt from the
20 training requirements of paragraph (a) need not complete
21 additional training hours in order to renew their licenses.

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23 However, any person whose license has been revoked or whose
24 license has been expired for 1 year or longer is considered,
25 upon reapplication for a license, an initial applicant and
26 must submit proof of successful completion of the total number
27 of required 40 hours of professional training at a school or
28 training facility licensed by the department.

29 (5) An applicant for a Class "G" license shall satisfy
30 the firearms training outlined in s. 493.6115.

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1 Section 2. Section 501.059, Florida Statutes, is
2 amended to read:

3 501.059 Telephone solicitation.--

4 (1) As used in this section:

5 (a) "Telephonic sales call" means a call made by a
6 telephone solicitor to a telephone number ~~consumer~~, for the
7 purpose of soliciting a sale of any ~~consumer~~ goods or
8 services, ~~or~~ for the purpose of soliciting an extension of
9 credit for any ~~consumer~~ goods or services, or for the purpose
10 of obtaining information that will or may be used for the
11 direct solicitation of a sale of any ~~consumer~~ goods or
12 services or an extension of credit for such purposes.

13 (b) "~~Consumer~~ Goods or services" means any real
14 property or any tangible or intangible personal property which
15 is normally used for personal, family, ~~or~~ household, or
16 business purposes, including, without limitation, any such
17 property intended to be attached to or installed in any real
18 property without regard to whether it is so attached or
19 installed, as well as cemetery lots and timeshare estates, and
20 any services related to such property.

21 (c) "Unsolicited telephonic sales call" means a
22 telephonic sales call other than a call made:

23 1. In response to an express request of the person
24 called;

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

28 3. To any person with whom the telephone solicitor has
29 a prior or existing business relationship; or

30 4. By a newspaper publisher or his or her agent or
31 employee in connection with his or her business.

1 (d) "Commission" means the Florida Public Service
2 Commission.

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

9 (f) "Consumer" means an actual or prospective
10 purchaser, lessee, or recipient of ~~consumer~~ goods or services.

11 (g) "Merchant" means a person who, directly or
12 indirectly, offers or makes available to purchasers ~~consumers~~
13 any ~~consumer~~ goods or services.

14 (h) "Doing business in this state" refers to
15 businesses who conduct telephonic sales calls from a location
16 in Florida or from other states or nations to telephone
17 numbers ~~consumers~~ located in Florida.

18 (i) "Department" means the Department of Agriculture
19 and Consumer Services.

20 (2) Any telephone solicitor who makes an unsolicited
21 telephonic sales call to any ~~a residential, mobile, or~~
22 ~~telephonic paging device~~ telephone number shall identify
23 himself or herself by his or her true first and last names and
24 the business on whose behalf he or she is soliciting
25 immediately upon making contact by telephone with the person
26 who is the object of the telephone solicitation.

27 (3)(a) Any residential, business, mobile, or
28 telephonic paging device telephone subscriber desiring to be
29 placed on a "no sales solicitation calls" listing indicating
30 that the subscriber does not wish to receive unsolicited
31 telephonic sales calls may notify the department and be placed

1 on that listing upon receipt by the department of a \$10
2 initial listing charge. This listing shall be renewed by the
3 department annually for each consumer upon receipt of a
4 renewal notice and a \$5 assessment.

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

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

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

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

4 ~~(b) A contract made pursuant to a telephonic sales~~
5 ~~call:~~

6 ~~(a)1. Is~~ Shall be reduced to writing and signed by the
7 consumer.

8 ~~(b)2. Complies~~ Shall comply with all other applicable
9 laws and rules.

10 ~~(c)3. Matches~~ Shall match the description of goods or
11 services as principally used in the telephone solicitations.

12 ~~(d)4. Contains~~ Shall contain the name, address, and
13 telephone number of the seller, the total price of the
14 contract, and a detailed description of the goods or services
15 being sold.

16 ~~(e)5. Contains~~ Shall contain, in bold, conspicuous
17 type, immediately preceding the signature, the following
18 statement:

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

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

24 ~~(c) The provisions of~~

25
26 This subsection does ~~do~~ not apply to contractual sales
27 regulated under other sections of the Florida Statutes, or to
28 the sale of financial services, security sales, or sales
29 transacted by companies or their wholly owned subsidiaries or
30 agents, which companies are regulated by chapter 364, or to
31 the sale of cable television services to the duly franchised

1 | cable television operator's existing subscribers within that
2 | cable television operator's franchise area, or to any sales
3 | where no prior payment is made to the merchant and an invoice
4 | accompanies the goods or services allowing the consumer 7 days
5 | to cancel or return without obligation for any payment.

6 | (6)(a) A merchant who engages a telephone solicitor to
7 | make or cause to be made a telephonic sales call may ~~shall~~ not
8 | make or submit any charge to the consumer's credit card
9 | account or make or cause to be made any electronic transfer of
10 | funds until after the merchant receives from the consumer a
11 | copy of the contract, signed by the purchaser, which complies
12 | with this section.

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

16 | (c) ~~The provisions of~~ This subsection does ~~do~~ not
17 | apply to a transaction:

18 | 1. Made in accordance with prior negotiations in the
19 | course of a visit by the purchaser ~~consumer~~ to a merchant
20 | operating a retail business establishment which has a fixed
21 | permanent location and where consumer goods are displayed or
22 | offered for sale on a continuing basis;

23 | 2. In which the purchaser ~~consumer~~ may obtain a full
24 | refund for the return of undamaged and unused goods or a
25 | cancellation of services notice to the seller within 7 days
26 | after receipt by the consumer, and the seller will process the
27 | refund within 30 days after receipt of the returned
28 | merchandise by the consumer;

29 | 3. In which the purchaser ~~consumer~~ purchases goods or
30 | services as part of ~~pursuant to~~ an examination of a
31 |

1 television, radio, or print advertisement or a sample,
2 brochure, or catalog of the merchant that contains:

3 a. The name, address, and telephone number of the
4 merchant;

5 b. A description of the goods or services being sold;
6 and

7 c. Any limitations or restrictions that apply to the
8 offer; or

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

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

16 (b) Nothing herein prohibits the use of an automated
17 telephone dialing system with live messages if the calls are
18 made or messages given solely in response to calls initiated
19 by the persons to whom the automatic calls or live messages
20 are directed or if the telephone numbers selected for
21 automatic dialing have been screened to exclude any telephone
22 subscriber who is included on the department's then-current
23 "no sales solicitation calls" listing or any unlisted
24 telephone number, or if the calls made concern goods or
25 services that have been previously ordered or purchased.

26 (c) A person may not transmit, or knowingly allow the
27 transmission of, a facsimile of documents through connection
28 with a telephone network if the facsimile transmission
29 involves unsolicited advertising material for the sale of any
30 real property, goods, or services.

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

21 (9)(a) In any civil litigation resulting from a
22 transaction involving a violation of this section, the
23 prevailing party, after judgment in the trial court and
24 exhaustion of all appeals, if any, shall receive his or her
25 reasonable attorney's fees and costs from the nonprevailing
26 party.

27 (b) The attorney for the prevailing party shall submit
28 a sworn affidavit of his or her time spent on the case and his
29 or her costs incurred for all the motions, hearings, and
30 appeals to the trial judge who presided over the civil case.
31

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

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

8 (e) In any civil litigation initiated by the
9 department or the Department of Legal Affairs, the court shall
10 ~~may~~ award to the prevailing party reasonable attorney's fees
11 and costs ~~if the court finds that there was a complete absence~~
12 ~~of a justiciable issue of either law or fact raised by the~~
13 ~~losing party or if the court finds bad faith on the part of~~
14 ~~the losing party.~~ Travel and per diem expenses incurred by the
15 department or the Department of Legal Affairs for its
16 attorneys and witnesses shall be recoverable costs by the
17 department or the Department of Legal Affairs if either party
18 prevails in civil litigation.

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

22 (a) Annual inserts in the billing statements mailed to
23 customers; and

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

26 Section 3. Sections 546.001, 546.002, 546.003,
27 546.004, 546.006, and 546.008, Florida Statutes, are repealed.

28 Section 4. Paragraph (a) of subsection (1) of section
29 559.801, Florida Statutes, is amended to read:

30 559.801 Definitions.--For the purpose of ss.

31 559.80-559.815, the term:

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

7 1. That the seller or person or entity affiliated with
8 or referred by the seller will provide locations, either
9 contemporaneously at the time of the sale or lease or at a
10 future time, or assist the purchaser in finding locations for
11 the use or operation of vending machines, racks, display
12 cases, currency or card operated equipment, or other similar
13 devices or currency-operated amusement machines or devices on
14 premises neither owned nor leased by the purchaser or seller;

15 2. That the seller will purchase, either
16 contemporaneously at the time of the sale or lease or at a
17 future time, any or all products made, produced, fabricated,
18 grown, bred, or modified by the purchaser using in whole or in
19 part the supplies, services, or chattels sold to the
20 purchaser;

21 3. That the seller guarantees that the purchaser will
22 derive income from the business opportunity which exceeds the
23 price paid or rent charged for the business opportunity or
24 that the seller will refund all or part of the price paid or
25 rent charged for the business opportunity, or will repurchase
26 any of the products, equipment, supplies, or chattels supplied
27 by the seller, if the purchaser is unsatisfied with the
28 business opportunity; or

29 4. That the seller will provide, either
30 contemporaneously at the time of the sale or lease or at a
31 future time, a sales program or marketing program that will

1 enable the purchaser to derive income from the business
2 opportunity, except that this paragraph does not apply to the
3 sale of a sales program or marketing program made in
4 conjunction with the licensing of a trademark or service mark
5 that is registered under the laws of any state or of the
6 United States if the seller requires use of the trademark or
7 service mark in the sales agreement.

8
9 For the purpose of subparagraph 1., the term "assist the
10 purchaser in finding locations" means, but is not limited to,
11 supplying the purchaser with names of locator companies,
12 contracting with the purchaser to provide assistance or supply
13 names, or collecting a fee on behalf of or for a locator
14 company.

15 Section 5. Section 559.920, Florida Statutes, is
16 amended to read:

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

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

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

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

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

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

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 6. Subsections (1) and (3) of section 559.928,
12 Florida Statutes, are amended to 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 and pay a fee of \$100 prior to
11 engaging in business in this state. This affidavit must
12 include the independent agent's full name, legal business or
13 trade name, mailing address, business address, and telephone
14 number, ~~social security number~~, and the name or names and
15 addresses of each seller of travel represented by the
16 independent agent and must be accompanied by a copy of the
17 independent agent's current contract with each seller of
18 travel. A letter evidencing proof of filing must be issued by
19 the department and must be prominently displayed in the
20 independent agent's primary place of business. As used in
21 this subsection, the term "independent agent" means a person
22 who represents a seller of travel by soliciting persons on its
23 behalf; who has a written contract with a seller of travel
24 which is operating in compliance with this part and any rules
25 adopted thereunder; who does not receive a fee, commission, or
26 other valuable consideration directly from the purchaser for
27 the seller of travel; who does not at any time have any
28 unissued ticket stock or travel documents in his or her
29 possession; and who does not have the ability to issue
30 tickets, vacation certificates, or any other travel document.
31 The term "independent agent" does not include an affiliate of

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

4 | Section 7. Paragraph (b) of subsection (5) and
5 | subsection (9) of section 616.242, Florida Statutes, are
6 | amended to read:

7 | 616.242 Safety standards for amusement rides.--

8 | (5) ANNUAL PERMIT.--

9 | (b) To apply for an annual permit an owner must submit
10 | to the department a written application on a form prescribed
11 | by rule of the department, which must include the following:

12 | 1. The legal name, address, and primary place of
13 | business of the owner.

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

17 | 3. A valid certificate of insurance ~~or bond~~ for each
18 | amusement ride.

19 | 4. An affidavit of compliance that the amusement ride
20 | was inspected in person by the affiant and that the amusement
21 | ride is in general conformance with the requirements of this
22 | section and all applicable rules adopted by the department.
23 | The affidavit must be executed by a professional engineer or a
24 | qualified inspector no earlier than 60 days before, but not
25 | later than, the date of the filing of the application with the
26 | department. The owner shall request inspection and permitting
27 | of the amusement ride within 60 days of the date of filing the
28 | application with the department. The department shall inspect
29 | and permit the amusement ride within 60 days after filing the
30 | application with the department.

31 |

1 5. If required by subsection (6), an affidavit of
2 nondestructive testing dated and executed no earlier than 60
3 days prior to, but not later than, the date of the filing of
4 the application with the department. The owner shall request
5 inspection and permitting of the amusement ride within 60 days
6 of the date of filing the application with the department. The
7 department shall inspect and permit the amusement ride within
8 60 days after filing the application with the department.

9 6. A request for inspection.

10 7. Upon request, the owner shall, at no cost to the
11 department, provide the department a copy of the
12 manufacturer's current recommended operating instructions in
13 the possession of the owner, the owner's operating fact sheet,
14 and any written bulletins in the possession of the owner
15 concerning the safety, operation, or maintenance of the
16 amusement ride.

17 (9) INSURANCE REQUIREMENTS.--

18 (a) An owner may not operate an amusement ride unless
19 the owner has in effect at all times of operation ~~insurance~~
20 ~~meeting the following requirements:~~

21 ~~1.~~ an insurance policy in an amount of not less than
22 \$1 million per occurrence, \$1 million in the aggregate, which
23 insures the owner of the amusement ride against liability for
24 injury to persons arising out of the use of the amusement
25 ride; ~~or~~

26 ~~2. A bond in a like amount; however, the aggregate~~
27 ~~liability of the surety under the bond may not exceed the face~~
28 ~~amount thereof.~~

29 (b) The policy ~~or bond~~ must be procured from an
30 insurer or surety that is licensed to transact business in
31 this state or that is approved as a surplus lines insurer.

1 (c) The insurance requirements imposed under this
2 subsection do not apply to a governmental entity that is
3 covered by the provisions of s. 768.28(16).

4 Section 8. Subsection (1) of section 849.094, Florida
5 Statutes, is amended to read:

6 849.094 Game promotion in connection with sale of
7 consumer products or services.--

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

9 (a) "Game promotion" means, but is not limited to, a
10 contest, game of chance, or gift enterprise, conducted within
11 or throughout the state and other states in connection with
12 the sale of consumer products or services, and in which the
13 elements of chance and prize are present. However, "game
14 promotion" shall not be construed to apply to bingo games
15 conducted pursuant to s. 849.0931.

16 (b) "Operator" means any person, firm, corporation, or
17 association on whose behalf a game promotion is conducted ~~or~~
18 ~~agent or employee thereof who promotes, operates, or conducts~~
19 ~~a game promotion~~, except any charitable nonprofit
20 organization.

21 Section 9. This act shall take effect October 1, 2005.
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SENATE SUMMARY

Requires an applicant for a Class "D" security license to complete 8 additional hours of training in terrorism awareness or other special training prescribed by the Department of Agriculture and Consumer Services. Requires licensees to complete the training and submit proof of completion to the department. Revises various provisions governing telephone sales calls. Authorizes a business to subscribe to the "no sales solicitation calls" listing of the Department of Agriculture and Consumer Services. Prohibits the unsolicited transmission of advertising materials through facsimile. Repeals ch. 546, F.S., the "Amusement Ride and Attraction Insurance Act." Deletes authorization for an owner of an amusement ride to maintain liability protection by means of a surety bond. Imposes an annual fee of \$100 on independent travel agents. (See bill for details.)