

By the Committees on General Government Appropriations;  
Judiciary; Commerce and Consumer Services; and Senator Lynn

601-2310-05

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.;  
12          prohibiting the transmission of facsimile  
13          documents under certain circumstances; amending  
14          s. 501.142, F.S.; providing that the regulation  
15          of refunds in retail sales establishments is  
16          preempted by the Department of Agriculture and  
17          Consumer Services; authorizing the department  
18          to adopt rules; authorizing the department to  
19          enter orders for certain violations; requiring  
20          that any moneys recovered by the department as  
21          a penalty be deposited in the General  
22          Inspection Trust Fund; authorizing a local  
23          government to impose penalties; amending s.  
24          506.5131, F.S.; revising fees, fines, and costs  
25          assessed against the owner of a shopping cart;  
26          repealing s. 526.3135, F.S., relating to  
27          reports of the Division of Standards of the  
28          Department of Agriculture and Consumer  
29          Services; repealing ss. 546.001, 546.002,  
30          546.003, 546.004, 546.006, and 546.008, F.S.,  
31          relating to the "Amusement Ride and Attraction

1 Insurance Act"; amending s. 559.801, F.S.;  
2 redefining the term "business opportunity" for  
3 purposes of the "Sale of Business Opportunities  
4 Act"; amending s. 559.920, F.S.; redefining  
5 actions by motor vehicle repair shops or  
6 employees which are unlawful; amending s.  
7 559.927, F.S.; defining the term "travel club"  
8 for the purpose of part XI of ch. 559, F.S.,  
9 relating to sellers of travel; amending s.  
10 559.928, F.S.; revising information to be  
11 submitted for registration as a seller of  
12 travel and information submitted by independent  
13 agents; requiring the payment of an annual fee;  
14 amending s. 616.242, F.S.; exempting certain  
15 governmental entities from a requirement to  
16 maintain liability protection covering  
17 amusement rides; amending s. 849.094, F.S.;  
18 redefining the term "operator" for purposes of  
19 the regulation of game promotions; providing  
20 requirements relating to disclosure of the  
21 rules and regulations of a game promotion;  
22 directing the State Technology Office to  
23 integrate additional features into the state's  
24 official Internet website; directing the State  
25 Technology Office to integrate information  
26 concerning the Florida 211 Network into the  
27 state's official Internet website; amending s.  
28 570.544, F.S.; designating the Division of  
29 Consumer Services within the Department of  
30 Agriculture and Consumer Services as the state  
31 clearinghouse for matters relating to consumer

1 protection, consumer information, and consumer  
2 services; deleting reporting requirements;  
3 providing for implementation; providing  
4 effective dates.

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

7  
8 Section 1. Section 493.6303, Florida Statutes, is  
9 amended to read:

10 493.6303 License requirements.--In addition to the  
11 license requirements set forth elsewhere in this chapter, each  
12 individual or agency shall comply with the following  
13 additional requirements:

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

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

20 (a) Security work or related fields of work that  
21 provided equivalent experience or training;

22 (b) Experience described in paragraph (a) for 1 year  
23 and experience described in paragraph (c) for 1 year;

24 (c) No more than 1 year using:

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

27 2. Successfully completed law enforcement-related  
28 training received from any federal, state, county, or  
29 municipal agency; or

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

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

5           (4)(a) Effective January 1, 2006 ~~October 1, 1994~~, an  
6 applicant for a Class "D" license must complete ~~have completed~~  
7 a minimum of 44 ~~40~~ hours of professional training administered  
8 by at a school or training facility licensed by the  
9 department. The department shall by rule establish the general  
10 content and number of hours of all the training. Such training  
11 must include at least 8 hours of instruction in terrorism  
12 awareness or other special training prescribed by the  
13 department.

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

16           1. Successful completion of the total number of  
17 required ~~40~~ hours of training before initial application for a  
18 Class "D" license; or

19           2. Successful completion of 24 hours of training  
20 before initial application ~~for~~, and the remaining 16 hours of  
21 training within 180 days after the date upon the first  
22 application is submitted for renewal of, a Class "D" license.  
23 If documentation of completion of the required training is not  
24 submitted within the specified timeframe, the individual's  
25 license is automatically suspended until such time as proof of  
26 the required training is provided to the department. However,  
27 Individuals licensed before October 1, 1994, or individuals  
28 who have successfully completed 40 hours of professional  
29 training before January 1, 2006, at a school or training  
30 facility licensed by the department, are exempt from the

1 training requirements of paragraph (a) need not complete  
2 additional training hours in order to renew their licenses.

3  
4 However, any person whose license has been revoked or whose  
5 license has been expired for 1 year or longer is considered,  
6 upon reapplication for a license, an initial applicant and  
7 must submit proof of successful completion of the total number  
8 of required 40 hours of professional training at a school or  
9 training facility licensed by the department.

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

12 Section 2. Subsections (7) and (8) of section 501.059,  
13 Florida Statutes, are amended to read:

14 501.059 Telephone solicitation.--

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

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

30 (c) A person may not transmit, or knowingly allow the  
31 transmission of, a facsimile of documents through connection

1 with a telephone network if the facsimile transmission  
2 involves unsolicited advertising material for the sale of any  
3 real property, goods, or services.

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

24 Section 3. Section 501.142, Florida Statutes, is  
25 amended to read:

26 501.142 Retail sales establishments; preemption;  
27 notice of refund policy; exceptions; penalty.--

28 (1) The regulation of refunds is preempted to the  
29 Department of Agriculture and Consumer Services  
30 notwithstanding any other law or local ordinance to the  
31 contrary. Every retail sales establishment offering goods for

1 sale to the general public that offers no cash refund, credit  
2 refund, or exchange of merchandise must post a sign so stating  
3 at the point of sale. Failure of a retail sales establishment  
4 to exhibit a "no refund" sign under such circumstances at the  
5 point of sale shall mean that a refund or exchange policy  
6 exists, and the policy shall be presented in writing to the  
7 consumer upon request. Any retail establishment failing to  
8 comply with the provisions of this section shall grant to the  
9 consumer, upon request and proof of purchase, a refund on the  
10 merchandise, within 7 days of the date of purchase, provided  
11 the merchandise is unused and in the original carton, if one  
12 was furnished. Nothing herein shall prohibit a retail sales  
13 establishment from having a refund policy which exceeds the  
14 number of days specified herein. The department may adopt  
15 rules pursuant to chapter 120 to enforce the provisions in  
16 this section. However, this subsection does not prohibit a  
17 local government from enforcing the provisions established by  
18 this section or department rule.

19 (2) The provisions of this section shall not apply to  
20 the sale of food, perishable goods, goods which are custom  
21 made, goods which are custom altered at the request of the  
22 customer, or goods which cannot be resold by the merchant  
23 because of any law, rule, or regulation adopted by a  
24 governmental body.

25 (3) The department may enter an order doing one or  
26 more of the following if the department finds that a person  
27 has violated or is operating in violation of any of the  
28 provisions of this section or the rules or orders issued under  
29 this section:

30 (a) Issue a notice of noncompliance pursuant to s.  
31 120.695.

1           (b) Impose an administrative fine not to exceed \$100  
2 for each violation.

3           (c) Direct that the person cease and desist specified  
4 activities.

5           (4) The administrative proceedings that could result  
6 in the entry of an order imposing any of the penalties  
7 specified in subsection (3) are governed by chapter 120.

8           (5) Any moneys recovered by the Department of  
9 Agriculture and Consumer Services as a penalty under this  
10 section shall be deposited in the General Inspection Trust  
11 Fund.

12           (6) Upon the first violation of this section, a local  
13 government may issue a written warning. Upon a second and any  
14 subsequent violation, a local government may impose a fine of  
15 up to \$50 per violation. Any moneys recovered by the local  
16 government as a penalty under this section shall be deposited  
17 in the appropriate local account.

18           Section 4. Section 506.5131, Florida Statutes, is  
19 amended to read:

20           506.5131 Return of shopping carts; assessment of fees,  
21 fines, and costs.--

22           (1) The rightful owner of any shopping cart with a  
23 registered name or mark found on public property shall be  
24 immediately notified of its recovery.

25           (2) Notwithstanding any other ~~provision of~~ law or  
26 local ordinance, no fee, fine, or costs may be assessed  
27 against the owner of a shopping cart unless the shopping cart  
28 was found on public property and, ~~unless the shopping cart~~ was  
29 removed from the premises or parking area of a retail  
30 establishment by the owner of the shopping cart, or an  
31 employee acting on the owner's behalf, and the such fee, fine,



1 or cost has been approved by the Department of Agriculture and  
2 Consumer Services.

3 Section 5. Section 526.3135, Florida Statutes, is  
4 repealed.

5 Section 6. Sections 546.001, 546.002, 546.003,  
6 546.004, 546.006, and 546.008, Florida Statutes, are repealed.

7 Section 7. Paragraph (a) of subsection (1) of section  
8 559.801, Florida Statutes, is amended to read:

9 559.801 Definitions.--For the purpose of ss.

10 559.80-559.815, the term:

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

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

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

31

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

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

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

26           Section 8. Section 559.920, Florida Statutes, is  
27 amended to read:

28           559.920 Unlawful acts and practices.--It shall be a  
29 violation of this act for any motor vehicle repair shop or  
30 employee thereof to:

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- 1           (1) Engage or attempt to engage in repair work for  
2 compensation of any type without first being registered with  
3 ~~or having submitted an affidavit of exemption to the~~  
4 department;
- 5           (2) Make or charge for repairs which have not been  
6 expressly or impliedly authorized by the customer;
- 7           (3) Misrepresent that repairs have been made to a  
8 motor vehicle;
- 9           (4) Misrepresent that certain parts and repairs are  
10 necessary to repair a vehicle;
- 11           (5) Misrepresent that the vehicle being inspected or  
12 diagnosed is in a dangerous condition or that the customer's  
13 continued use of the vehicle may be harmful or cause great  
14 damage to the vehicle;
- 15           (6) Fraudulently alter any customer contract,  
16 estimate, invoice, or other document;
- 17           (7) Fraudulently misuse any customer's credit card;
- 18           (8) Make or authorize in any manner or by any means  
19 whatever any written or oral statement which is untrue,  
20 deceptive or misleading, and which is known, or which by the  
21 exercise of reasonable care should be known, to be untrue,  
22 deceptive or misleading;
- 23           (9) Make false promises of a character likely to  
24 influence, persuade, or induce a customer to authorize the  
25 repair, service, or maintenance of a motor vehicle;
- 26           (10) Substitute used, rebuilt, salvaged, or  
27 straightened parts for new replacement parts without notice to  
28 the motor vehicle owner and to her or his insurer if the cost  
29 of repair is to be paid pursuant to an insurance policy and  
30 the identity of the insurer or its claims adjuster is  
31 disclosed to the motor vehicle repair shop;

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

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

7           (13) Willfully depart from or disregard accepted  
8 practices and professional standards;

9           (14) Have repair work subcontracted without the  
10 knowledge or consent of the customer unless the motor vehicle  
11 repair shop or employee thereof demonstrates that the customer  
12 could not reasonably have been notified;

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

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

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

23           Section 9. Present subsection (11) of section 559.927,  
24 Florida Statutes, is redesignated as subsection (12), and a  
25 new subsection (11) is added to that section, to read:

26           559.927 Definitions.--For the purposes of this part,  
27 the term:

28           (11) "Travel club" means an organization in which a  
29 member has the right to receive or purchase prearranged  
30 travel, tourist-related services, or tour-guide services, as  
31 such prearranged travel, tourist-related services, or

1 tour-guide services are from time to time offered, for an  
2 advance fee or payment, which may be subject to reservation on  
3 a first-come, first-served, space-available basis, but in  
4 which a member is not granted a legal or equitable interest in  
5 any real property or specific right of use, without a  
6 reservation, of any specific property. A travel club  
7 registered under this part does not constitute a timeshare  
8 interest or timeshare plan.

9           Section 10. Subsections (1) and (3) of section  
10 559.928, Florida Statutes, are amended to read:

11           559.928 Registration.--

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

1 or supervisor; and proof of purchase of adequate bond or  
2 establishment of a letter of credit or certificate of deposit  
3 as required in this part. A certificate evidencing proof of  
4 registration shall be issued by the department and must be  
5 prominently displayed in the seller of travel's primary place  
6 of business.

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

1 s. 559.935(3), or the employees of the seller of travel or of  
2 such affiliates.

3 Section 11. Paragraph (c) is added to subsection (9)  
4 of section 616.242, Florida Statutes, to read:

5 616.242 Safety standards for amusement rides.--

6 (9) INSURANCE REQUIREMENTS.--

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

10 Section 12. Subsections (1) and (3) of section  
11 849.094, Florida Statutes, are amended to read:

12 849.094 Game promotion in connection with sale of  
13 consumer products or services.--

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

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

22 (b) "Operator" means any person, firm, corporation, or  
23 association on whose behalf a game promotion is conducted ~~or~~  
24 ~~agent or employee thereof who promotes, operates, or conducts~~  
25 ~~a game promotion~~, except any charitable nonprofit  
26 organization.

27 (3) The operator of a game promotion in which the  
28 total announced value of the prizes offered is greater than  
29 \$5,000 shall file with the Department of Agriculture and  
30 Consumer Services a copy of the rules and regulations of the  
31 game promotion and a list of all prizes and prize categories

1 | offered at least 7 days before the commencement of the game  
2 | promotion. Such rules and regulations may not thereafter be  
3 | changed, modified, or altered. The operator of a game  
4 | promotion shall conspicuously post the rules and regulations  
5 | of such game promotion in each and every retail outlet or  
6 | place where such game promotion may be played or participated  
7 | in by the public and shall also publish the rules and  
8 | regulations in all advertising copy used in connection  
9 | therewith. However, such advertising copy need only include  
10 | the material terms of the rules and regulations if the  
11 | advertising copy includes a website address, a toll-free  
12 | telephone number, or a mailing address where the full rules  
13 | and regulations may be viewed, heard, or obtained for the full  
14 | duration of the game promotion. Such disclosures must be  
15 | legible. Radio and television announcements may indicate that  
16 | the rules and regulations are available at retail outlets or  
17 | from the operator of the promotion. A nonrefundable filing fee  
18 | of \$100 shall accompany each filing and shall be used to pay  
19 | the costs incurred in administering and enforcing the  
20 | provisions of this section.

21 |       Section 13. The State Technology Office shall provide  
22 | a banner on the official Internet website of the state which  
23 | is hyperlinked to a website of the Department of Agriculture  
24 | and Consumer Services which:

25 |           (1) Aggregates a wide variety of consumer-protection  
26 | information and resources available from state agencies;

27 |           (2) Features useful tools to help consumers identify  
28 | which agencies have jurisdiction over specific subjects; and

29 |           (3) Includes alerts for consumers on known fraudulent  
30 | practices.

31 |



1           Section 14. The State Technology Office shall provide  
2 a banner on the official Internet website of the state which  
3 is hyperlinked to a website of the Florida 211 Network which:

4           (1) Profiles the information and referral system known  
5 as the Florida 211 Network; and

6           (2) Lists areas within the state where the network is  
7 available and the respective telephone numbers to access  
8 members of the Florida 211 network.

9           Section 15. Subsections (3), (6), and (7) of section  
10 570.544, Florida Statutes, are amended to read:

11           570.544 Division of Consumer Services; director;  
12 powers; processing of complaints; records.--

13           (3) In addition to the powers, duties, and  
14 responsibilities authorized by this or any other chapter, the  
15 Division of Consumer Services shall serve as the state a  
16 clearinghouse for matters relating to consumer protection,  
17 consumer information, and consumer services generally. It  
18 shall receive complaints and grievances from consumers and  
19 promptly transmit them to that agency most directly concerned  
20 in order that the complaint or grievance may be expeditiously  
21 handled in the best interests of the complaining consumer. If  
22 no agency exists, the Division of Consumer Services shall seek  
23 a settlement of the complaint using formal or informal methods  
24 of mediation and conciliation and may seek any other  
25 resolution of the matter in accordance with its jurisdiction.

26           ~~(6)(a)~~ The office or agency to which a complaint has  
27 been referred shall within 30 days acknowledge receipt of the  
28 complaint ~~and report on the disposition made of the complaint.~~  
29 ~~In the event a complaint has not been disposed of within 30~~  
30 ~~days, the receiving office or agency shall file progress~~

1 ~~reports with the Division of Consumer Services no less~~  
2 ~~frequently than 30 days until final disposition.~~

3 ~~(b) The report shall contain at least the following~~  
4 ~~information:~~

5 ~~1. A finding of whether the receiving agency has~~  
6 ~~jurisdiction of the subject matter involved in the complaint.~~

7 ~~2. Whether the complaint is deemed to be frivolous,~~  
8 ~~sham, or without basis in fact or law.~~

9 ~~3. What action has been taken and a report on whether~~  
10 ~~the original complainant was satisfied with the final~~  
11 ~~disposition.~~

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

15 ~~(7)(a) If the office or agency receiving a complaint~~  
16 ~~fails to file a report as contemplated in this section, that~~  
17 ~~failure shall be construed as a denial by the receiving office~~  
18 ~~or agency that it has jurisdiction of the subject matter~~  
19 ~~contained in the complaint.~~

20 ~~(b) If an office or agency receiving a complaint~~  
21 ~~determines that the matter presents a prima facie case for~~  
22 ~~criminal prosecution or if the complaint cannot be settled at~~  
23 ~~the administrative level, the complaint together with all~~  
24 ~~supporting evidence shall be transmitted to the Department of~~  
25 ~~Legal Affairs or other appropriate enforcement agency with a~~  
26 ~~recommendation for civil or criminal action warranted by the~~  
27 ~~evidence.~~

28 Section 16. This act is not contingent upon the  
29 appropriation of funds or an increase in fees for its  
30 implementation.

31

1           Section 17. Except as otherwise expressly provided in  
2 this act, this act shall take effect October 1, 2005.

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4                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
5                   COMMITTEE SUBSTITUTE FOR  
6                   CS for CS for Senate Bill 1520

7 Preempts the regulation of sales refunds by retail sales  
8 establishments to the Department of Agriculture and Consumer  
9 Services.

10 Clarifies provisions regarding the prohibition against local  
11 governments to impose monetary penalties on shopping cart  
12 owners whose carts have been removed from their premises.

13 Deletes the requirement for a report regarding motor fuel  
14 complaints which report is not used by the Department.

15 Deletes authority for the Department of Legal Affairs to  
16 recover travel and per diem expenses if either agency is the  
17 prevailing party in civil litigation.

18 Provides that fees paid by independent sellers of travel will  
19 be deposited into the General Inspection Trust Fund of the  
20 department.

21 Clarifies that travel club members are not granted certain  
22 rights without a reservation.  
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