

1
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; amending s. 616.242, F.S. ; exempting
14 certain governmental entities from a
15 requirement to maintain liability protection
16 covering amusement rides; amending s. 849.094,
17 F.S. ; redefining the term "operator" for
18 purposes of the regulation of game promotions;
19 providing requirements relating to disclosure
20 of the rules and regulations of a game
21 promotion; amending s. 849.161, F.S. ; providing
22 that the chapter does not apply to amusement
23 games or machines which operate by the
24 insertion of a coin or other currency;
25 directing the State Technology Office to
26 integrate additional features into the state's
27 official Internet website; directing the State
28 Technology Office to integrate information
29 concerning the Florida 211 Network into the
30 state's official Internet website; amending s.
31 570.544, F.S. ; designating the Division of

1 Consumer Services within the Department of
2 Agriculture and Consumer Services as the state
3 clearinghouse for matters relating to consumer
4 protection, consumer information, and consumer
5 services; deleting reporting requirements;
6 providing for implementation; providing
7 effective dates.

8
9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Section 493.6303, Florida Statutes, is
12 amended to read:

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

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

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

23 (a) Security work or related fields of work that
24 provided equivalent experience or training;

25 (b) Experience described in paragraph (a) for 1 year
26 and experience described in paragraph (c) for 1 year;

27 (c) No more than 1 year using:

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

30

31

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

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

6 (3) An applicant for a Class "M" license shall qualify
7 for licensure as a Class "MA" manager as outlined under s.
8 493.6203(2) and as a Class "MB" manager as outlined under
9 subsection (2).

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

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

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

24 2. Successful completion of 24 hours of training
25 before initial application ~~for~~, and the remaining 16 hours of
26 training within 180 days after the date upon the first
27 application is submitted for renewal of, a Class "D" license.
28 If documentation of completion of the required training is not
29 submitted within the specified timeframe, the individual's
30 license is automatically suspended until such time as proof of
31 the required training is provided to the department. However,

1 Individuals licensed before October 1, 1994, or individuals
2 who have successfully completed 40 hours of professional
3 training before January 1, 2006, at a school or training
4 facility licensed by the department, are exempt from the
5 training requirements of paragraph (a) need not complete
6 additional training hours in order to renew their licenses.

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

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

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

18 501.059 Telephone solicitation.--

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

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

1 telephone number, or if the calls made concern goods or
2 services that have been previously ordered or purchased.

3 (c) A person may not transmit, or knowingly allow the
4 transmission of, a facsimile of documents through connection
5 with a telephone network if the facsimile transmission
6 involves unsolicited advertising material for the sale of any
7 real property, goods, or services.

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

28 Section 3. Section 501.142, Florida Statutes, is
29 amended to read:

30 501.142 Retail sales establishments; preemption;
31 notice of refund policy; exceptions; penalty.--

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

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

29 (3) The department may enter an order doing one or
30 more of the following if the department finds that a person
31 has violated or is operating in violation of any of the

1 provisions of this section or the rules or orders issued under
2 this section:

3 (a) Issue a notice of noncompliance pursuant to s.
4 120.695.

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

7 (c) Direct that the person cease and desist specified
8 activities.

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

12 (5) Any moneys recovered by the Department of
13 Agriculture and Consumer Services as a penalty under this
14 section shall be deposited in the General Inspection Trust
15 Fund.

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

22 Section 4. Section 506.5131, Florida Statutes, is
23 amended to read:

24 506.5131 Return of shopping carts; assessment of fees,
25 fines, and costs.--

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

29 (2) Notwithstanding any other ~~provision of~~ law or
30 local ordinance, no fee, fine, or costs may be assessed
31 against the owner of a shopping cart unless the shopping cart

1 was found on public property ~~and, unless the shopping cart~~ was
2 removed from the premises or parking area of a retail
3 establishment by the owner of the shopping cart, or an
4 employee acting on the owner's behalf, and the ~~such~~ fee, fine,
5 or cost has been approved by the Department of Agriculture and
6 Consumer Services.

7 Section 5. Section 526.3135, Florida Statutes, is
8 repealed.

9 Section 6. Sections 546.001, 546.002, 546.003,
10 546.004, 546.006, and 546.008, Florida Statutes, are repealed.

11 Section 7. Paragraph (a) of subsection (1) of section
12 559.801, Florida Statutes, is amended to read:

13 559.801 Definitions.--For the purpose of ss.
14 559.80-559.815, the term:

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

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

29 2. That the seller will purchase, either
30 contemporaneously at the time of the sale or lease or at a
31 future time, any or all products made, produced, fabricated,

1 grown, bred, or modified by the purchaser using in whole or in
2 part the supplies, services, or chattels sold to the
3 purchaser;

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

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

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

29 Section 8. Section 559.920, Florida Statutes, is
30 amended to read:

31

1 559.920 Unlawful acts and practices.--It shall be a
2 violation of this act for any motor vehicle repair shop or
3 employee thereof to:

4 (1) Engage or attempt to engage in repair work for
5 compensation of any type without first being registered with
6 ~~or having submitted an affidavit of exemption to the~~
7 department;

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

10 (3) Misrepresent that repairs have been made to a
11 motor vehicle;

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

14 (5) Misrepresent that the vehicle being inspected or
15 diagnosed is in a dangerous condition or that the customer's
16 continued use of the vehicle may be harmful or cause great
17 damage to the vehicle;

18 (6) Fraudulently alter any customer contract,
19 estimate, invoice, or other document;

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

21 (8) Make or authorize in any manner or by any means
22 whatever any written or oral statement which is untrue,
23 deceptive or misleading, and which is known, or which by the
24 exercise of reasonable care should be known, to be untrue,
25 deceptive or misleading;

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

29 (10) Substitute used, rebuilt, salvaged, or
30 straightened parts for new replacement parts without notice to
31 the motor vehicle owner and to her or his insurer if the cost

1 of repair is to be paid pursuant to an insurance policy and
2 the identity of the insurer or its claims adjuster is
3 disclosed to the motor vehicle repair shop;

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

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

10 (13) Willfully depart from or disregard accepted
11 practices and professional standards;

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

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

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

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

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

29 559.927 Definitions.--For the purposes of this part,
30 the term:

31

1 (11) "Travel club" means an organization in which a
2 member has the right to receive or purchase prearranged
3 travel, tourist-related services, or tour-guide services, as
4 such prearranged travel, tourist-related services, or
5 tour-guide services are from time to time offered, for an
6 advance fee or payment, which may be subject to reservation on
7 a first-come, first-served, space-available basis, but in
8 which a member is not granted a legal or equitable interest in
9 any real property or specific right of use, without a
10 reservation, of any specific property. A travel club
11 registered under this part does not constitute a timeshare
12 interest or timeshare plan.

13 Section 10. Subsections (1) and (3) of section
14 559.928, Florida Statutes, are amended to read:

15 559.928 Registration.--

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

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

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

1 certificates, or any other travel document. The term
2 "independent agent" does not include an affiliate of the
3 seller of travel, as that term is used in s. 559.935(3), or
4 the employees of the seller of travel or of such affiliates.

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

7 616.242 Safety standards for amusement rides.--

8 (9) INSURANCE REQUIREMENTS.--

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

12 Section 12. Subsections (1) and (3) of section
13 849.094, Florida Statutes, are amended to read:

14 849.094 Game promotion in connection with sale of
15 consumer products or services.--

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

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

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

29 (3) The operator of a game promotion in which the
30 total announced value of the prizes offered is greater than
31 \$5,000 shall file with the Department of Agriculture and

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

23 Section 13. Paragraph (a) of subsection (1) of section
24 849.161, Florida Statutes, is amended to read:

25 849.161 Amusement games or machines; when chapter
26 inapplicable.--

27 (1)(a)1. Nothing contained in this chapter shall be
28 taken or construed as applicable to an arcade amusement center
29 having amusement games or machines which operate by means of
30 the insertion of a coin or other currency and which by
31 application of skill may entitle the person playing or

1 operating the game or machine to receive points or coupons
2 which may be exchanged for merchandise only, excluding cash
3 and alcoholic beverages, provided the cost value of the
4 merchandise or prize awarded in exchange for such points or
5 coupons does not exceed 75 cents on any game played.

6 2. Nothing contained in this chapter shall be taken or
7 construed as applicable to any retail dealer who operates as a
8 truck stop, as defined in chapter 336 and which operates a
9 minimum of 6 functional diesel fuel pumps, having amusement
10 games or machines which operate by means of the insertion of a
11 coin or other currency and which by application of skill may
12 entitle the person playing or operating the game or machine to
13 receive points or coupons which may be exchanged for
14 merchandise limited to noncash prizes, toys, novelties, and
15 Florida Lottery products, excluding alcoholic beverages,
16 provided the cost value of the merchandise or prize awarded in
17 exchange for such points or coupons does not exceed 75 cents
18 on any game played. This subparagraph applies only to games
19 and machines which are operated for the entertainment of the
20 general public and tourists as bona fide amusement games or
21 machines. This subsection shall not apply, however, to any
22 game or device defined as a gambling device in 24 U.S.C. s.
23 1171, which requires identification of each device by
24 permanently affixing seriatim numbering and name, trade name,
25 and date of manufacture under s. 1173, and registration with
26 the United States Attorney General, unless excluded from
27 applicability of the chapter under s. 1178. This subsection
28 shall not be construed to authorize video poker games or any
29 other game or machine that may be construed as a gambling
30 device under Florida law.

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 Department of Agriculture
4 and Consumer Services which:

5 (1) Aggregates a wide variety of consumer-protection
6 information and resources available from state agencies;

7 (2) Features useful tools to help consumers identify
8 which agencies have jurisdiction over specific subjects; and

9 (3) Includes alerts for consumers on known fraudulent
10 practices.

11 Section 15. The State Technology Office shall provide
12 a banner on the official Internet website of the state which
13 is hyperlinked to a website of the Florida 211 Network which:

14 (1) Profiles the information and referral system known
15 as the Florida 211 Network; and

16 (2) Lists areas within the state where the network is
17 available and the respective telephone numbers to access
18 members of the Florida 211 network.

19 Section 16. Subsections (3), (6), and (7) of section
20 570.544, Florida Statutes, are amended to read:

21 570.544 Division of Consumer Services; director;
22 powers; processing of complaints; records.--

23 (3) In addition to the powers, duties, and
24 responsibilities authorized by this or any other chapter, the
25 Division of Consumer Services shall serve as the state a
26 clearinghouse for matters relating to consumer protection,
27 consumer information, and consumer services generally. It
28 shall receive complaints and grievances from consumers and
29 promptly transmit them to that agency most directly concerned
30 in order that the complaint or grievance may be expeditiously
31 handled in the best interests of the complaining consumer. If

1 no agency exists, the Division of Consumer Services shall seek
2 a settlement of the complaint using formal or informal methods
3 of mediation and conciliation and may seek any other
4 resolution of the matter in accordance with its jurisdiction.

5 ~~(6)(a) The office or agency to which a complaint has~~
6 ~~been referred shall within 30 days acknowledge receipt of the~~
7 ~~complaint and report on the disposition made of the complaint.~~

8 ~~In the event a complaint has not been disposed of within 30~~
9 ~~days, the receiving office or agency shall file progress~~
10 ~~reports with the Division of Consumer Services no less~~
11 ~~frequently than 30 days until final disposition.~~

12 ~~(b) The report shall contain at least the following~~
13 ~~information:~~

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

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

18 ~~3. What action has been taken and a report on whether~~
19 ~~the original complainant was satisfied with the final~~
20 ~~disposition.~~

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

24 ~~(7)(a) If the office or agency receiving a complaint~~
25 ~~fails to file a report as contemplated in this section, that~~
26 ~~failure shall be construed as a denial by the receiving office~~
27 ~~or agency that it has jurisdiction of the subject matter~~
28 ~~contained in the complaint.~~

29 ~~(b) If an office or agency receiving a complaint~~
30 ~~determines that the matter presents a prima facie case for~~
31 ~~criminal prosecution or if the complaint cannot be settled at~~

1 | the administrative level, the complaint together with all
2 | supporting evidence shall be transmitted to the Department of
3 | Legal Affairs or other appropriate enforcement agency with a
4 | recommendation for civil or criminal action warranted by the
5 | evidence.

6 | Section 17. This act is not contingent upon the
7 | appropriation of funds or an increase in fees for its
8 | implementation.

9 | Section 18. Except as otherwise expressly provided in
10 | this act, this act shall take effect October 1, 2005.

11 |
12 |
13 |
14 |
15 |
16 |
17 |
18 |
19 |
20 |
21 |
22 |
23 |
24 |
25 |
26 |
27 |
28 |
29 |
30 |
31 |