

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act relating to consumer protection; amending s.
8 493.6303, F.S.; revising training requirements for
9 obtaining a Class "D" license; requiring a minimum number
10 of hours of training in terrorism awareness or other
11 training prescribed by the Department of Agriculture and
12 Consumer Services; providing a timeframe for submitting
13 proof of having completed the training; revising the
14 number of training hours required; amending s. 501.059,
15 F.S.; prohibiting the transmission of facsimile documents
16 under certain circumstances; providing for attorney's fees
17 and for the recovery of certain litigation expenses by the
18 department and the Department of Legal Affairs; repealing
19 ss. 546.001, 546.002, 546.003, 546.004, 546.006, and
20 546.008, F.S., relating to the "Amusement Ride and
21 Attraction Insurance Act"; amending s. 559.801, F.S.;
22 redefining the term "business opportunity" for purposes of
23 the "Sale of Business Opportunities Act"; amending s.

24 | 559.920, F.S.; revising actions by motor vehicle repair
 25 | shops or employees which are unlawful; amending s.
 26 | 559.927, F.S.; providing a definition of "travel club";
 27 | amending s. 559.928, F.S.; revising information to be
 28 | submitted for registration as a seller of travel and
 29 | information submitted by independent agents; requiring the
 30 | payment of an annual fee by independent agents; amending
 31 | s. 616.242, F.S.; deleting provisions authorizing the
 32 | owner of an amusement ride to maintain liability
 33 | protection in the form of a surety bond; exempting certain
 34 | governmental entities from a requirement to maintain
 35 | liability protection covering amusement rides; amending s.
 36 | 849.094, F.S.; redefining the term "operator" for purposes
 37 | of the regulation of game promotions in connection with
 38 | the sale of consumer products or services; providing that
 39 | the operator of certain game promotions need only include
 40 | the material terms of the rules and regulations of the
 41 | game in advertising copy used in connection therewith
 42 | under specified conditions; reenacting s. 501.603(1)(a),
 43 | F.S., which defines "commercial telephone solicitation";
 44 | reenacting s. 559.809(12), F.S., which specifies
 45 | prohibited acts under the "Sale of Business Opportunities
 46 | Act"; directing the State Technology Office to integrate
 47 | additional features into the state's official Internet
 48 | website; directing the State Technology Office to
 49 | integrate information concerning the Florida 211 Network
 50 | into the state's official Internet website; amending s.
 51 | 570.544, F.S.; designating the Division of Consumer

HB 833 CS

2005
CS

52 Services within the Department of Agriculture and Consumer
 53 Services as the state clearinghouse for matters relating
 54 to consumer protection, consumer information, and consumer
 55 services; deleting certain reporting requirements;
 56 providing appropriations and authorizing additional
 57 positions; amending s. 526.3135, F.S.; correcting a cross
 58 reference, to conform; providing effective dates.
 59

60 Be It Enacted by the Legislature of the State of Florida:
 61

62 Section 1. Section 493.6303, Florida Statutes, is amended
 63 to read:

64 493.6303 License requirements.--In addition to the license
 65 requirements set forth elsewhere in this chapter, each
 66 individual or agency shall comply with the following additional
 67 requirements:

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

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

74 (a) Security work or related fields of work that provided
 75 equivalent experience or training;

76 (b) Experience described in paragraph (a) for 1 year and
 77 experience described in paragraph (c) for 1 year;

78 (c) No more than 1 year using:

HB 833 CS

2005
CS

79 | 1. Either college coursework related to criminal justice,
80 | criminology, or law enforcement administration; or

81 | 2. Successfully completed law enforcement-related training
82 | received from any federal, state, county, or municipal agency;
83 | or

84 | (d) Experience described in paragraph (a) for 1 year and
85 | work in a managerial or supervisory capacity for 1 year.

86 | (3) An applicant for a Class "M" license shall qualify for
87 | licensure as a Class "MA" manager as outlined under s.
88 | 493.6203(2) and as a Class "MB" manager as outlined under
89 | subsection (2).

90 | (4)(a) Effective January 1, 2006 ~~October 1, 1994~~, an
91 | applicant for a Class "D" license must complete ~~have completed~~ a
92 | minimum of 44 ~~40~~ hours of professional training administered by
93 | ~~at~~ a school or training facility licensed by the department. The
94 | department shall by rule establish the general content and
95 | number of hours of all the training. Such training must include
96 | at least 8 hours of instruction in terrorism awareness or other
97 | special training prescribed by the department.

98 | (b) An applicant may fulfill the training requirement
99 | prescribed in paragraph (a) by submitting proof of:

100 | 1. Successful completion of the total number of required
101 | ~~40~~ hours of training before initial application for a Class "D"
102 | license; or

103 | 2. Successful completion of 24 hours of training before
104 | initial application ~~for~~, and the remaining 16 hours of training
105 | within 180 days after the date upon the first application is
106 | submitted for renewal of, a Class "D" license. If documentation

107 | of completion of the required training is not submitted within
 108 | the specified timeframe, the individual's license is
 109 | automatically suspended until such time as proof of the required
 110 | training is provided to the department. ~~However,~~ Individuals
 111 | licensed before October 1, 1994, or individuals who have
 112 | successfully completed 40 hours of professional training before
 113 | January 1, 2006, at a school or training facility licensed by
 114 | the department are exempt from the training requirements of
 115 | paragraph (a) need not complete additional training hours in
 116 | order to renew their licenses.

117 |
 118 | However, any person whose license has been revoked or whose
 119 | license has been expired for 1 year or longer is considered,
 120 | upon reapplication for a license, an initial applicant and must
 121 | submit proof of successful completion of the total number of
 122 | required 40 hours of professional training at a school or
 123 | training facility licensed by the department.

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

126 | Section 2. Subsections (7), (8), and (9) of section
 127 | 501.059, Florida Statutes, are amended to read:

128 | 501.059 Telephone solicitation.--

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

134 (b) Nothing herein prohibits the use of an automated
 135 telephone dialing system with live messages if the calls are
 136 made or messages given solely in response to calls initiated by
 137 the persons to whom the automatic calls or live messages are
 138 directed or if the telephone numbers selected for automatic
 139 dialing have been screened to exclude any telephone subscriber
 140 who is included on the department's then-current "no sales
 141 solicitation calls" listing or any unlisted telephone number, or
 142 if the calls made concern goods or services that have been
 143 previously ordered or purchased.

144 (c) A person may not transmit or knowingly allow the
 145 transmission of a facsimile of documents through connection with
 146 a telephone network if the facsimile transmission involves
 147 unsolicited advertising material for the sale of any real
 148 property, goods, or services.

149 (8) The department shall investigate any complaints
 150 received concerning violations of this section. If, after
 151 investigating any complaint, the department finds that there has
 152 been a violation of this section, the department or the
 153 Department of Legal Affairs may bring an action to impose a
 154 civil penalty and to seek other relief, including injunctive
 155 relief, as the court deems appropriate against the telephone
 156 solicitor. The civil penalty shall not exceed \$10,000 per
 157 violation and shall be deposited in the General Inspection Trust
 158 Fund if the action or proceeding was brought by the department,
 159 or the Legal Affairs Revolving Trust Fund if the action or
 160 proceeding was brought by the Department of Legal Affairs. This
 161 civil penalty may be recovered in any action brought under this

HB 833 CS

2005
CS

162 part by the department, or the department may terminate any
 163 investigation or action upon agreement by the person to pay an
 164 agreed-upon ~~a stipulated~~ civil penalty. The department or the
 165 court may waive any civil penalty if the person has previously
 166 made full restitution or reimbursement or has paid actual
 167 damages to the consumers who have been injured by the violation.

168 (9)(a) In any civil litigation resulting from a
 169 transaction involving a violation of this section, the
 170 prevailing party, after judgment in the trial court and
 171 exhaustion of all appeals, if any, shall receive his or her
 172 reasonable attorney's fees and costs from the nonprevailing
 173 party.

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

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

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

184 (e) In any civil litigation initiated by the department or
 185 the Department of Legal Affairs, the court shall ~~may~~ award to
 186 the prevailing party reasonable attorney's fees and costs ~~if the~~
 187 ~~court finds that there was a complete absence of a justiciable~~
 188 ~~issue of either law or fact raised by the losing party or if the~~
 189 ~~court finds bad faith on the part of the losing party.~~ Travel

190 and per diem expenses incurred by the department or the
 191 Department of Legal Affairs for its attorneys and witnesses
 192 shall be recoverable costs by the department or the Department
 193 of Legal Affairs if either party prevails in civil litigation.

194 Section 3. Sections 546.001, 546.002, 546.003, 546.004,
 195 546.006, and 546.008, Florida Statutes, are repealed.

196 Section 4. Paragraph (a) of subsection (1) of section
 197 559.801, Florida Statutes, is amended to read:

198 559.801 Definitions.--For the purpose of ss. 559.80-
 199 559.815, the term:

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

206 1. That the seller or person or entity affiliated with or
 207 referred by the seller will provide locations, either
 208 contemporaneously at the time of the sale or lease or at a
 209 future time, or assist the purchaser in finding locations for
 210 the use or operation of vending machines, racks, display cases,
 211 currency or card operated equipment, or other similar devices or
 212 currency-operated amusement machines or devices on premises
 213 neither owned nor leased by the purchaser or seller;

214 2. That the seller will purchase, either contemporaneously
 215 at the time of the sale or lease or at a future time, any or all
 216 products made, produced, fabricated, grown, bred, or modified by

HB 833 CS

2005
CS

217 | the purchaser using in whole or in part the supplies, services,
218 | or chattels sold to the purchaser;

219 | 3. That the seller guarantees that the purchaser will
220 | derive income from the business opportunity which exceeds the
221 | price paid or rent charged for the business opportunity or that
222 | the seller will refund all or part of the price paid or rent
223 | charged for the business opportunity, or will repurchase any of
224 | the products, equipment, supplies, or chattels supplied by the
225 | seller, if the purchaser is unsatisfied with the business
226 | opportunity; or

227 | 4. That the seller will provide, either contemporaneously
228 | at the time of the sale or lease or at a future time, a sales
229 | program or marketing program that will enable the purchaser to
230 | derive income from the business opportunity, except that this
231 | paragraph does not apply to the sale of a sales program or
232 | marketing program made in conjunction with the licensing of a
233 | trademark or service mark that is registered under the laws of
234 | any state or of the United States if the seller requires use of
235 | the trademark or service mark in the sales agreement.

236 |
237 | For the purpose of subparagraph 1., the term "assist the
238 | purchaser in finding locations" means, but is not limited to,
239 | supplying the purchaser with names of locator companies,
240 | contracting with the purchaser to provide assistance or supply
241 | names, or collecting a fee on behalf of or for a locator
242 | company.

243 | Section 5. Section 559.920, Florida Statutes, is amended
244 | to read:

HB 833 CS

2005
CS

245 559.920 Unlawful acts and practices.--It shall be a
246 violation of this act for any motor vehicle repair shop or
247 employee thereof to:

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

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

253 (3) Misrepresent that repairs have been made to a motor
254 vehicle;

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

257 (5) Misrepresent that the vehicle being inspected or
258 diagnosed is in a dangerous condition or that the customer's
259 continued use of the vehicle may be harmful or cause great
260 damage to the vehicle;

261 (6) Fraudulently alter any customer contract, estimate,
262 invoice, or other document;

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

264 (8) Make or authorize in any manner or by any means
265 whatever any written or oral statement which is untrue,
266 deceptive or misleading, and which is known, or which by the
267 exercise of reasonable care should be known, to be untrue,
268 deceptive or misleading;

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

HB 833 CS

2005
CS

272 (10) Substitute used, rebuilt, salvaged, or straightened
 273 parts for new replacement parts without notice to the motor
 274 vehicle owner and to her or his insurer if the cost of repair is
 275 to be paid pursuant to an insurance policy and the identity of
 276 the insurer or its claims adjuster is disclosed to the motor
 277 vehicle repair shop;

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

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

284 (13) Willfully depart from or disregard accepted practices
 285 and professional standards;

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

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

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

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

HB 833 CS

2005
CS

299 Section 6. Subsection (12) is added to section 559.927,
300 Florida Statutes, to read:

301 559.927 Definitions.--For the purposes of this part, the
302 term:

303 (12) "Travel club" means a membership in an organization
304 in which a member has the right to receive or purchase
305 prearranged travel, tourist-related services, or tour-guide
306 services, as such travel or services are from time-to-time
307 offered, for an advance fee or payment, which may be available
308 on a first-come, first-served, space-available reservation basis
309 and in which a member is not granted a legal or equitable
310 interest in any real property or specific right of use of any
311 specific property. A travel club properly registered under this
312 part shall not be deemed to be nor constitute a timeshare
313 interest or timeshare plan.

314 Section 7. Subsections (1) and (3) of section 559.928,
315 Florida Statutes, are amended to read:

316 559.928 Registration.--

317 (1) Each seller of travel shall annually register with the
318 department, providing: its legal business or trade name, mailing
319 address, and business locations; the full names, addresses, and
320 ~~telephone numbers, and social security numbers~~ of its owners or
321 corporate officers and directors and the Florida agent of the
322 corporation; a statement whether it is a domestic or foreign
323 corporation, its state and date of incorporation, its charter
324 number, and, if a foreign corporation, the date it registered
325 with the State of Florida, and occupational license where
326 applicable; the date on which a seller of travel registered its

HB 833 CS

2005
CS

327 fictitious name if the seller of travel is operating under a
 328 fictitious or trade name; the name of all other corporations,
 329 business entities, and trade names through which each owner of
 330 the seller of travel operated, was known, or did business as a
 331 seller of travel within the preceding 5 years; a list of all
 332 authorized independent agents, including the agent's trade name,
 333 full name, mailing address, business address, telephone numbers,
 334 and social security number; the business location and address of
 335 each branch office and full name and address of the manager or
 336 supervisor; and proof of purchase of adequate bond or
 337 establishment of a letter of credit or certificate of deposit as
 338 required in this part. A certificate evidencing proof of
 339 registration shall be issued by the department and must be
 340 prominently displayed in the seller of travel's primary place of
 341 business.

342 (3) Each independent agent shall annually file an
 343 affidavit with the department and pay a fee of \$100 prior to
 344 engaging in business in this state. This affidavit must include
 345 the independent agent's full name, legal business or trade name,
 346 mailing address, business address, and telephone number, ~~social~~
 347 ~~security number~~, and the name or names and addresses of each
 348 seller of travel represented by the independent agent and must
 349 be accompanied by a copy of the independent agent's current
 350 contract with each seller of travel. A letter evidencing proof
 351 of filing must be issued by the department and must be
 352 prominently displayed in the independent agent's primary place
 353 of business. As used in this subsection, the term "independent
 354 agent" means a person who represents a seller of travel by

HB 833 CS

2005
CS

355 | soliciting persons on its behalf; who has a written contract
 356 | with a seller of travel which is operating in compliance with
 357 | this part and any rules adopted thereunder; who does not receive
 358 | a fee, commission, or other valuable consideration directly from
 359 | the purchaser for the seller of travel; who does not at any time
 360 | have any unissued ticket stock or travel documents in his or her
 361 | possession; and who does not have the ability to issue tickets,
 362 | vacation certificates, or any other travel document. The term
 363 | "independent agent" does not include an affiliate of the seller
 364 | of travel, as that term is used in s. 559.935(3), or the
 365 | employees of the seller of travel or of such affiliates.

366 | Section 8. Paragraph (b) of subsection (5) and subsection
 367 | (9) of section 616.242, Florida Statutes, are amended to read:

368 | 616.242 Safety standards for amusement rides.--

369 | (5) ANNUAL PERMIT.--

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

373 | 1. The legal name, address, and primary place of business
 374 | of the owner.

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

378 | 3. A valid certificate of insurance ~~or bond~~ for each
 379 | amusement ride.

380 | 4. An affidavit of compliance that the amusement ride was
 381 | inspected in person by the affiant and that the amusement ride
 382 | is in general conformance with the requirements of this section

383 and all applicable rules adopted by the department. The
 384 affidavit must be executed by a professional engineer or a
 385 qualified inspector no earlier than 60 days before, but not
 386 later than, the date of the filing of the application with the
 387 department. The owner shall request inspection and permitting of
 388 the amusement ride within 60 days of the date of filing the
 389 application with the department. The department shall inspect
 390 and permit the amusement ride within 60 days after filing the
 391 application with the department.

392 5. If required by subsection (6), an affidavit of
 393 nondestructive testing dated and executed no earlier than 60
 394 days prior to, but not later than, the date of the filing of the
 395 application with the department. The owner shall request
 396 inspection and permitting of the amusement ride within 60 days
 397 of the date of filing the application with the department. The
 398 department shall inspect and permit the amusement ride within 60
 399 days after filing the application with the department.

400 6. A request for inspection.

401 7. Upon request, the owner shall, at no cost to the
 402 department, provide the department a copy of the manufacturer's
 403 current recommended operating instructions in the possession of
 404 the owner, the owner's operating fact sheet, and any written
 405 bulletins in the possession of the owner concerning the safety,
 406 operation, or maintenance of the amusement ride.

407 (9) INSURANCE REQUIREMENTS.--

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

HB 833 CS

2005
CS

411 ~~1.~~ an insurance policy in an amount of not less than \$1
 412 million per occurrence, \$1 million in the aggregate, which
 413 insures the owner of the amusement ride against liability for
 414 injury to persons arising out of the use of the amusement ride;
 415 ~~or~~

416 ~~2. A bond in a like amount; however, the aggregate~~
 417 ~~liability of the surety under the bond may not exceed the face~~
 418 ~~amount thereof.~~

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

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

425 Section 9. Subsections (1) and (3) of section 849.094,
 426 Florida Statutes, are amended to read:

427 849.094 Game promotion in connection with sale of consumer
 428 products or services.--

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

430 (a) "Game promotion" means, but is not limited to, a
 431 contest, game of chance, or gift enterprise, conducted within or
 432 throughout the state and other states in connection with the
 433 sale of consumer products or services, and in which the elements
 434 of chance and prize are present. However, "game promotion" shall
 435 not be construed to apply to bingo games conducted pursuant to
 436 s. 849.0931.

437 (b) "Operator" means any person, firm, corporation, or
 438 association on whose behalf a game promotion is conducted ~~or~~

439 ~~agent or employee thereof who promotes, operates, or conducts a~~
 440 ~~game promotion~~, except any charitable nonprofit organization.

441 (3) The operator of a game promotion in which the total
 442 announced value of the prizes offered is greater than \$5,000
 443 shall file with the Department of Agriculture and Consumer
 444 Services a copy of the rules and regulations of the game
 445 promotion and a list of all prizes and prize categories offered
 446 at least 7 days before the commencement of the game promotion.
 447 Such rules and regulations may not thereafter be changed,
 448 modified, or altered. The operator of a game promotion shall
 449 conspicuously post the rules and regulations of such game
 450 promotion in each and every retail outlet or place where such
 451 game promotion may be played or participated in by the public
 452 and shall also publish the rules and regulations in all
 453 advertising copy used in connection therewith. However, such
 454 advertising copy need only include the material terms of the
 455 rules and regulations if the advertising copy includes a website
 456 address, a toll-free telephone number, or a mailing address
 457 where the full rules and regulations may be viewed, heard, or
 458 obtained for the full duration of the game promotion. Such
 459 disclosures must be legible. Radio and television announcements
 460 may indicate that the rules and regulations are available at
 461 retail outlets or from the operator of the promotion. A
 462 nonrefundable filing fee of \$100 shall accompany each filing and
 463 shall be used to pay the costs incurred in administering and
 464 enforcing the provisions of this section.

465 Section 10. For the purpose of incorporating the amendment
 466 to section 501.059, Florida Statutes, in a reference thereto,

HB 833 CS

2005
CS

467 paragraph (a) of subsection (1) of section 501.603, Florida
468 Statutes, is reenacted to read:

469 501.603 Definitions.--As used in this part, unless the
470 context otherwise requires, the term:

471 (1) "Commercial telephone solicitation" means:

472 (a) An unsolicited telephone call to a person initiated by
473 a commercial telephone seller or salesperson, or an automated
474 dialing machine used in accordance with the provisions of s.
475 501.059(7) for the purpose of inducing the person to purchase or
476 invest in consumer goods or services;

477

478 For purposes of this section, "other communication" means a
479 written or oral notification or advertisement transmitted
480 through any means. Also, for purposes of this section, "invites
481 a response by telephone" does not mean the mere listing or
482 including of a telephone number in a notification or
483 advertisement.

484 Section 11. For the purpose of incorporating the amendment
485 to section 559.801, Florida Statutes, in a reference thereto,
486 subsection (12) of section 559.809, Florida Statutes, is
487 reenacted to read:

488 559.809 Prohibited acts.--Business opportunity sellers
489 shall not:

490 (12) Misrepresent their ability or the ability of a person
491 or entity providing services as defined in s. 559.801(1)(a) to
492 provide locations or assist the purchaser in finding locations
493 expected to have a positive impact on the success of the
494 business opportunity.

495 Section 12. The State Technology Office shall provide a
 496 banner on the official Internet website of the state which is
 497 hyperlinked to a website of the Department of Agriculture and
 498 Consumer Services which:

499 (1) Aggregates a wide variety of consumer protection
 500 information and resources available from state agencies.

501 (2) Features useful tools to help consumers identify which
 502 agencies have jurisdiction over specific subjects.

503 (3) Includes alerts for consumers on known fraudulent
 504 practices.

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

508 (1) Profiles the information and referral system known as
 509 the Florida 211 Network.

510 (2) Lists areas within the state where the network is
 511 available and the respective telephone numbers to access members
 512 of the Florida 211 network.

513 Section 14. Subsections (3), (6), and (7) of section
 514 570.544, Florida Statutes, are amended to read:

515 570.544 Division of Consumer Services; director; powers;
 516 processing of complaints; records.--

517 (3) In addition to the powers, duties, and
 518 responsibilities authorized by this or any other chapter, the
 519 Division of Consumer Services shall serve as the state a
 520 clearinghouse for matters relating to consumer protection,
 521 consumer information, and consumer services generally. It shall
 522 receive complaints and grievances from consumers and promptly

HB 833 CS

2005
CS

523 transmit them to that agency most directly concerned in order
 524 that the complaint or grievance may be expeditiously handled in
 525 the best interests of the complaining consumer. If no agency
 526 exists, the Division of Consumer Services shall seek a
 527 settlement of the complaint using formal or informal methods of
 528 mediation and conciliation and may seek any other resolution of
 529 the matter in accordance with its jurisdiction.

530 ~~(6)(a) The office or agency to which a complaint has been~~
 531 ~~referred shall within 30 days acknowledge receipt of the~~
 532 ~~complaint and report on the disposition made of the complaint.~~
 533 ~~In the event a complaint has not been disposed of within 30~~
 534 ~~days, the receiving office or agency shall file progress reports~~
 535 ~~with the Division of Consumer Services no less frequently than~~
 536 ~~30 days until final disposition.~~

537 ~~(b) The report shall contain at least the following~~
 538 ~~information:~~

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

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

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

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

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

HB 833 CS

2005
CS

551 ~~that it has jurisdiction of the subject matter contained in the~~
552 ~~complaint.~~

553 ~~(b)~~ If an office or agency receiving a complaint
554 determines that the matter presents a prima facie case for
555 criminal prosecution or if the complaint cannot be settled at
556 the administrative level, the complaint together with all
557 supporting evidence shall be transmitted to the Department of
558 Legal Affairs or other appropriate enforcement agency with a
559 recommendation for civil or criminal action warranted by the
560 evidence.

561 Section 15. Effective July 1, 2005, the sum of \$140,000 is
562 appropriated from the General Revenue Fund to the Department of
563 Agriculture and Consumer Services for the purpose of upgrading
564 the department's computer system used to process consumer
565 complaints. In addition, the sum of \$120,000 and two full-time
566 equivalent positions are appropriated from the General Revenue
567 Fund to the Department of Agriculture and Consumer Services for
568 the purpose of providing additional resources for the
569 department's complaint clearinghouse.

570 Section 16. Section 526.3135, Florida Statutes, is amended
571 to read:

572 526.3135 Reports by the Division of Standards.--The
573 Division of Standards is directed to compile a report pursuant
574 to s. 570.544 of all complaints received by the Department of
575 Agriculture and Consumer Services pursuant to this act. Such
576 report shall ~~contain at least the information required by s.~~
577 ~~570.544(6)(b)2. 4. and shall~~ be presented to the Speaker of the

HB 833 CS

2005
CS

578 | House of Representatives and the President of the Senate no
579 | later than January 1 of each year.

580 | Section 17. Except as otherwise provided herein, this act
581 | shall take effect October 1, 2005.