

CHAMBER ACTION

1 The State Resources Council 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; amending
19 s. 501.142, F.S.; providing for preemption of the
20 regulation of refunds in retail sales establishments to
21 the Department of Agriculture and Consumer Services;
22 amending s. 506.5131, F.S.; clarifying provisions with
23 respect to the assessment of fees, fines, and costs

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24 relating to shopping carts found on public property;
25 repealing s. 526.3135, F.S.; relating to an annual report
26 compiled by the Division of Standards of the Department of
27 Agriculture and Consumer Services; repealing ss. 546.001,
28 546.002, 546.003, 546.004, 546.006, and 546.008, F.S.,
29 relating to the "Amusement Ride and Attraction Insurance
30 Act"; amending s. 559.801, F.S.; redefining the term
31 "business opportunity" for purposes of the "Sale of
32 Business Opportunities Act"; amending s. 559.920, F.S.;
33 revising actions by motor vehicle repair shops or
34 employees which are unlawful; amending s. 559.927, F.S.;
35 providing a definition of "travel club"; amending s.
36 559.928, F.S.; revising information to be submitted for
37 registration as a seller of travel and information
38 submitted by independent agents; requiring the payment of
39 an annual fee by independent agents; amending s. 616.242,
40 F.S.; exempting certain governmental entities from a
41 requirement to maintain liability protection covering
42 amusement rides; amending s. 849.094, F.S.; redefining the
43 term "operator" for purposes of the regulation of game
44 promotions in connection with the sale of consumer
45 products or services; providing that the operator of
46 certain game promotions need only include the material
47 terms of the rules and regulations of the game in
48 advertising copy used in connection therewith under
49 specified conditions; reenacting s. 501.603(1)(a), F.S.,
50 which defines "commercial telephone solicitation";
51 reenacting s. 559.809(12), F.S., which specifies

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 prohibited acts under the "Sale of Business Opportunities
 53 Act"; directing the State Technology Office to integrate
 54 additional features into the state's official Internet
 55 website; directing the State Technology Office to
 56 integrate information concerning the Florida 211 Network
 57 into the state's official Internet website; amending s.
 58 570.544, F.S.; designating the Division of Consumer
 59 Services within the Department of Agriculture and Consumer
 60 Services as the state clearinghouse for matters relating
 61 to consumer protection, consumer information, and consumer
 62 services; deleting certain reporting requirements;
 63 providing an effective date.

64

65 Be It Enacted by the Legislature of the State of Florida:

66

67 Section 1. Section 493.6303, Florida Statutes, is amended
 68 to read:

69 493.6303 License requirements.--In addition to the license
 70 requirements set forth elsewhere in this chapter, each
 71 individual or agency shall comply with the following additional
 72 requirements:

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

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

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79 (a) Security work or related fields of work that provided
80 equivalent experience or training;

81 (b) Experience described in paragraph (a) for 1 year and
82 experience described in paragraph (c) for 1 year;

83 (c) No more than 1 year using:

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

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

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

91 (3) An applicant for a Class "M" license shall qualify for
92 licensure as a Class "MA" manager as outlined under s.
93 493.6203(2) and as a Class "MB" manager as outlined under
94 subsection (2).

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

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

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105 1. Successful completion of the total number of required
106 ~~40~~ hours of training before initial application for a Class "D"
107 license; or

108 2. Successful completion of 24 hours of training before
109 initial application ~~for~~, and the remaining 16 hours of training
110 within 180 days after the date upon the first application is
111 submitted for renewal of, a Class "D" license. If documentation
112 of completion of the required training is not submitted within
113 the specified timeframe, the individual's license is
114 automatically suspended until such time as proof of the required
115 training is provided to the department. However, Individuals
116 licensed before October 1, 1994, or individuals who have
117 successfully completed 40 hours of professional training before
118 January 1, 2006, at a school or training facility licensed by
119 the department are exempt from the training requirements of
120 paragraph (a) need not complete additional training hours in
121 order to renew their licenses.

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

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

131 Section 2. Subsections (7), (8), and (9) of section
132 501.059, Florida Statutes, are amended to read:

133 | 501.059 Telephone solicitation.--

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

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

149 | (c) A person may not transmit or knowingly allow the
150 | transmission of a facsimile of documents through connection with
151 | a telephone network if the facsimile transmission involves
152 | unsolicited advertising material for the sale of any real
153 | property, goods, or services.

154 | (8) The department shall investigate any complaints
155 | received concerning violations of this section. If, after
156 | investigating any complaint, the department finds that there has
157 | been a violation of this section, the department or the
158 | Department of Legal Affairs may bring an action to impose a
159 | civil penalty and to seek other relief, including injunctive
160 | relief, as the court deems appropriate against the telephone

161 | solicitor. The civil penalty shall not exceed \$10,000 per
 162 | violation and shall be deposited in the General Inspection Trust
 163 | Fund if the action or proceeding was brought by the department,
 164 | or the Legal Affairs Revolving Trust Fund if the action or
 165 | proceeding was brought by the Department of Legal Affairs. This
 166 | civil penalty may be recovered in any action brought under this
 167 | part by the department, or the department may terminate any
 168 | investigation or action upon agreement by the person to pay an
 169 | agreed-upon ~~a stipulated~~ civil penalty. The department or the
 170 | court may waive any civil penalty if the person has previously
 171 | made full restitution or reimbursement or has paid actual
 172 | damages to the consumers who have been injured by the violation.

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

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

183 | (c) The trial judge shall award the prevailing party the
 184 | sum of reasonable costs incurred in the action plus a reasonable
 185 | legal fee for the hours actually spent on the case as sworn to
 186 | in an affidavit.

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

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189 (e) In any civil litigation initiated by the department or
 190 the Department of Legal Affairs, ~~the court may award to the~~
 191 prevailing party is entitled to recover reasonable attorney's
 192 fees and costs ~~if the court finds that there was a complete~~
 193 ~~absence of a justiciable issue of either law or fact raised by~~
 194 ~~the losing party or if the court finds bad faith on the part of~~
 195 ~~the losing party.~~ Travel and per diem expenses incurred by the
 196 department or the Department of Legal Affairs for its attorneys
 197 and witnesses shall be recoverable costs by either the
 198 department or the Department of Legal Affairs should either
 199 agency prevail in civil litigation.

200 Section 3. Subsection (3) is added to section 501.142,
 201 Florida Statutes, to read:

202 501.142 Retail sales establishments; notice of refund
 203 policy; exceptions.--

204 (3) Notwithstanding any other provision of law or local
 205 ordinance, the regulation of refunds in retail sales
 206 establishments is expressly preempted to the Department of
 207 Agriculture and Consumer Services.

208 Section 4. Section 506.5131, Florida Statutes, is amended
 209 to read:

210 506.5131 Return of shopping carts; assessment of fees,
 211 fines, and costs.--

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

215 (2) Notwithstanding any other provision of law or local
 216 ordinance, no fee, fine, or costs may be assessed against the

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217 owner of a shopping cart unless the shopping cart was found on
 218 public property, ~~unless the shopping cart and~~ was removed from
 219 the premises or parking area of a retail establishment by the
 220 owner of the shopping cart, or an employee acting on the owner's
 221 behalf, and such fee, fine, or cost has been approved by the
 222 Department of Agriculture and Consumer Services.

223 Section 5. Section 526.3135, Florida Statutes, is
 224 repealed.

225 Section 6. Sections 546.001, 546.002, 546.003, 546.004,
 226 546.006, and 546.008, Florida Statutes, are repealed.

227 Section 7. Paragraph (a) of subsection (1) of section
 228 559.801, Florida Statutes, is amended to read:

229 559.801 Definitions.--For the purpose of ss. 559.80-
 230 559.815, the term:

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

237 1. That the seller or person or entity affiliated with or
 238 referred by the seller will provide locations, either
 239 contemporaneously at the time of the sale or lease or at a
 240 future time, or assist the purchaser in finding locations for
 241 the use or operation of vending machines, racks, display cases,
 242 currency or card operated equipment, or other similar devices or
 243 currency-operated amusement machines or devices on premises
 244 neither owned nor leased by the purchaser or seller;

245 2. That the seller will purchase, either contemporaneously
 246 at the time of the sale or lease or at a future time, any or all
 247 products made, produced, fabricated, grown, bred, or modified by
 248 the purchaser using in whole or in part the supplies, services,
 249 or chattels sold to the purchaser;

250 3. That the seller guarantees that the purchaser will
 251 derive income from the business opportunity which exceeds the
 252 price paid or rent charged for the business opportunity or that
 253 the seller will refund all or part of the price paid or rent
 254 charged for the business opportunity, or will repurchase any of
 255 the products, equipment, supplies, or chattels supplied by the
 256 seller, if the purchaser is unsatisfied with the business
 257 opportunity; or

258 4. That the seller will provide, either contemporaneously
 259 at the time of the sale or lease or at a future time, a sales
 260 program or marketing program that will enable the purchaser to
 261 derive income from the business opportunity, except that this
 262 paragraph does not apply to the sale of a sales program or
 263 marketing program made in conjunction with the licensing of a
 264 trademark or service mark that is registered under the laws of
 265 any state or of the United States if the seller requires use of
 266 the trademark or service mark in the sales agreement.

267
 268 For the purpose of subparagraph 1., the term "assist the
 269 purchaser in finding locations" means, but is not limited to,
 270 supplying the purchaser with names of locator companies,
 271 contracting with the purchaser to provide assistance or supply

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272 names, or collecting a fee on behalf of or for a locator
273 company.

274 Section 8. Section 559.920, Florida Statutes, is amended
275 to read:

276 559.920 Unlawful acts and practices.--It shall be a
277 violation of this act for any motor vehicle repair shop or
278 employee thereof to:

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

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

284 (3) Misrepresent that repairs have been made to a motor
285 vehicle;

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

288 (5) Misrepresent that the vehicle being inspected or
289 diagnosed is in a dangerous condition or that the customer's
290 continued use of the vehicle may be harmful or cause great
291 damage to the vehicle;

292 (6) Fraudulently alter any customer contract, estimate,
293 invoice, or other document;

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

295 (8) Make or authorize in any manner or by any means
296 whatever any written or oral statement which is untrue,
297 deceptive or misleading, and which is known, or which by the
298 exercise of reasonable care should be known, to be untrue,
299 deceptive or misleading;

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

303 (10) Substitute used, rebuilt, salvaged, or straightened
304 parts for new replacement parts without notice to the motor
305 vehicle owner and to her or his insurer if the cost of repair is
306 to be paid pursuant to an insurance policy and the identity of
307 the insurer or its claims adjuster is disclosed to the motor
308 vehicle repair shop;

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

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

315 (13) Willfully depart from or disregard accepted practices
316 and professional standards;

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

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

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

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

330 Section 9. Subsection (12) is added to section 559.927,
331 Florida Statutes, to read:

332 559.927 Definitions.--For the purposes of this part, the
333 term:

334 (12) "Travel club" means a membership in an organization
335 in which a member has the right to receive or purchase
336 prearranged travel, tourist-related services, or tour-guide
337 services, as such travel or services are from time to time
338 offered, for an advance fee or payment, which may be available
339 on a first-come, first-served, space-available reservation basis
340 and in which a member is not granted a legal or equitable
341 interest in any real property or specific right of use, without
342 a reservation, of any specific property. A travel club
343 registered under this part shall not be deemed to be nor
344 constitute a timeshare interest or timeshare plan.

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

347 559.928 Registration.--

348 (1) Each seller of travel shall annually register with the
349 department, providing: its legal business or trade name, mailing
350 address, and business locations; the full names, addresses, and
351 telephone numbers, ~~and social security numbers~~ of its owners or
352 corporate officers and directors and the Florida agent of the
353 corporation; a statement whether it is a domestic or foreign
354 corporation, its state and date of incorporation, its charter
355 number, and, if a foreign corporation, the date it registered

356 | with the State of Florida, and occupational license where
 357 | applicable; the date on which a seller of travel registered its
 358 | fictitious name if the seller of travel is operating under a
 359 | fictitious or trade name; the name of all other corporations,
 360 | business entities, and trade names through which each owner of
 361 | the seller of travel operated, was known, or did business as a
 362 | seller of travel within the preceding 5 years; a list of all
 363 | authorized independent agents, including the agent's trade name,
 364 | full name, mailing address, business address, telephone numbers,
 365 | and social security number; the business location and address of
 366 | each branch office and full name and address of the manager or
 367 | supervisor; and proof of purchase of adequate bond or
 368 | establishment of a letter of credit or certificate of deposit as
 369 | required in this part. A certificate evidencing proof of
 370 | registration shall be issued by the department and must be
 371 | prominently displayed in the seller of travel's primary place of
 372 | business.

373 | (3) Each independent agent shall annually file an
 374 | affidavit with the department and pay a fee of \$100 for deposit
 375 | in the General Inspection Trust Fund of the department prior to
 376 | engaging in business in this state. This affidavit must include
 377 | the independent agent's full name, legal business or trade name,
 378 | mailing address, business address, and telephone number, ~~social~~
 379 | ~~security number~~, and the name or names and addresses of each
 380 | seller of travel represented by the independent agent and must
 381 | be accompanied by a copy of the independent agent's current
 382 | contract with each seller of travel. A letter evidencing proof
 383 | of filing must be issued by the department and must be

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384 prominently displayed in the independent agent's primary place
 385 of business. As used in this subsection, the term "independent
 386 agent" means a person who represents a seller of travel by
 387 soliciting persons on its behalf; who has a written contract
 388 with a seller of travel which is operating in compliance with
 389 this part and any rules adopted thereunder; who does not receive
 390 a fee, commission, or other valuable consideration directly from
 391 the purchaser for the seller of travel; who does not at any time
 392 have any unissued ticket stock or travel documents in his or her
 393 possession; and who does not have the ability to issue tickets,
 394 vacation certificates, or any other travel document. The term
 395 "independent agent" does not include an affiliate of the seller
 396 of travel, as that term is used in s. 559.935(3), or the
 397 employees of the seller of travel or of such affiliates.

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

400 616.242 Safety standards for amusement rides.--

401 (9) INSURANCE REQUIREMENTS.--

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

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

407 849.094 Game promotion in connection with sale of consumer
 408 products or services.--

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

410 (a) "Game promotion" means, but is not limited to, a
 411 contest, game of chance, or gift enterprise, conducted within or

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412 throughout the state and other states in connection with the
413 sale of consumer products or services, and in which the elements
414 of chance and prize are present. However, "game promotion" shall
415 not be construed to apply to bingo games conducted pursuant to
416 s. 849.0931.

417 (b) "Operator" means any person, firm, corporation, or
418 association on whose behalf a game promotion is conducted ~~or~~
419 ~~agent or employee thereof who promotes, operates, or conducts a~~
420 ~~game promotion~~, except any charitable nonprofit organization.

421 (3) The operator of a game promotion in which the total
422 announced value of the prizes offered is greater than \$5,000
423 shall file with the Department of Agriculture and Consumer
424 Services a copy of the rules and regulations of the game
425 promotion and a list of all prizes and prize categories offered
426 at least 7 days before the commencement of the game promotion.
427 Such rules and regulations may not thereafter be changed,
428 modified, or altered. The operator of a game promotion shall
429 conspicuously post the rules and regulations of such game
430 promotion in each and every retail outlet or place where such
431 game promotion may be played or participated in by the public
432 and shall also publish the rules and regulations in all
433 advertising copy used in connection therewith. However, such
434 advertising copy need only include the material terms of the
435 rules and regulations if the advertising copy includes a website
436 address, a toll-free telephone number, or a mailing address
437 where the full rules and regulations may be viewed, heard, or
438 obtained for the full duration of the game promotion. Such
439 disclosures must be legible. Radio and television announcements

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440 | may indicate that the rules and regulations are available at
 441 | retail outlets or from the operator of the promotion. A
 442 | nonrefundable filing fee of \$100 shall accompany each filing and
 443 | shall be used to pay the costs incurred in administering and
 444 | enforcing the provisions of this section.

445 | Section 13. For the purpose of incorporating the amendment
 446 | to section 501.059, Florida Statutes, in a reference thereto,
 447 | paragraph (a) of subsection (1) of section 501.603, Florida
 448 | Statutes, is reenacted to read:

449 | 501.603 Definitions.--As used in this part, unless the
 450 | context otherwise requires, the term:

451 | (1) "Commercial telephone solicitation" means:

452 | (a) An unsolicited telephone call to a person initiated by
 453 | a commercial telephone seller or salesperson, or an automated
 454 | dialing machine used in accordance with the provisions of s.
 455 | 501.059(7) for the purpose of inducing the person to purchase or
 456 | invest in consumer goods or services;

457 |
 458 | For purposes of this section, "other communication" means a
 459 | written or oral notification or advertisement transmitted
 460 | through any means. Also, for purposes of this section, "invites
 461 | a response by telephone" does not mean the mere listing or
 462 | including of a telephone number in a notification or
 463 | advertisement.

464 | Section 14. For the purpose of incorporating the amendment
 465 | to section 559.801, Florida Statutes, in a reference thereto,
 466 | subsection (12) of section 559.809, Florida Statutes, is
 467 | reenacted to read:

468 559.809 Prohibited acts.--Business opportunity sellers
469 shall not:

470 (12) Misrepresent their ability or the ability of a person
471 or entity providing services as defined in s. 559.801(1)(a) to
472 provide locations or assist the purchaser in finding locations
473 expected to have a positive impact on the success of the
474 business opportunity.

475 Section 15. The State Technology Office shall provide a
476 banner on the official Internet website of the state which is
477 hyperlinked to a website of the Department of Agriculture and
478 Consumer Services which:

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

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

483 (3) Includes alerts for consumers on known fraudulent
484 practices.

485 Section 16. The State Technology Office shall provide a
486 banner on the official Internet website of the state which is
487 hyperlinked to a website of the Florida 211 Network which:

488 (1) Profiles the information and referral system known as
489 the Florida 211 Network.

490 (2) Lists areas within the state where the network is
491 available and the respective telephone numbers to access members
492 of the Florida 211 network.

493 Section 17. Subsections (3), (6), and (7) of section
494 570.544, Florida Statutes, are amended to read:

495 | 570.544 Division of Consumer Services; director; powers;
496 | processing of complaints; records.--

497 | (3) In addition to the powers, duties, and
498 | responsibilities authorized by this or any other chapter, the
499 | Division of Consumer Services shall serve as the state a
500 | clearinghouse for matters relating to consumer protection,
501 | consumer information, and consumer services generally. It shall
502 | receive complaints and grievances from consumers and promptly
503 | transmit them to that agency most directly concerned in order
504 | that the complaint or grievance may be expeditiously handled in
505 | the best interests of the complaining consumer. If no agency
506 | exists, the Division of Consumer Services shall seek a
507 | settlement of the complaint using formal or informal methods of
508 | mediation and conciliation and may seek any other resolution of
509 | the matter in accordance with its jurisdiction.

510 | ~~(6)(a) The office or agency to which a complaint has been~~
511 | ~~referred shall within 30 days acknowledge receipt of the~~
512 | ~~complaint and report on the disposition made of the complaint.~~
513 | ~~In the event a complaint has not been disposed of within 30~~
514 | ~~days, the receiving office or agency shall file progress reports~~
515 | ~~with the Division of Consumer Services no less frequently than~~
516 | ~~30 days until final disposition.~~

517 | ~~(b) The report shall contain at least the following~~
518 | ~~information:~~

519 | ~~1. A finding of whether the receiving agency has~~
520 | ~~jurisdiction of the subject matter involved in the complaint.~~

521 | ~~2. Whether the complaint is deemed to be frivolous, sham,~~
522 | ~~or without basis in fact or law.~~

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

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

528 ~~(7)(a) If the office or agency receiving a complaint fails~~
529 ~~to file a report as contemplated in this section, that failure~~
530 ~~shall be construed as a denial by the receiving office or agency~~
531 ~~that it has jurisdiction of the subject matter contained in the~~
532 ~~complaint.~~

533 ~~(b)~~ If an office or agency receiving a complaint
534 determines that the matter presents a prima facie case for
535 criminal prosecution or if the complaint cannot be settled at
536 the administrative level, the complaint together with all
537 supporting evidence shall be transmitted to the Department of
538 Legal Affairs or other appropriate enforcement agency with a
539 recommendation for civil or criminal action warranted by the
540 evidence.

541 Section 18. This act shall take effect October 1, 2005.