

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 493.6203, F.S.; revising
4 requirements for obtaining a Class "MA," Class "M," or
5 Class "C" license as a private investigator; revising the
6 requirements for Class "CC" licensure as an intern;
7 amending s. 493.6401, F.S.; requiring a person who
8 conducts Internet-based training or correspondence
9 training for reposessor licensees to have a Class "RS"
10 license; amending s. 493.6406, F.S.; providing
11 requirements for training conducted by a repossession
12 services school or training facility; revising the
13 information required on a licensure application relating
14 to such a school or facility; amending s. 501.921, F.S.;
15 revising the name of the organization that provides
16 standards and test procedures used by the department in
17 adopting rules governing the formulation of antifreeze;
18 amending s. 525.07, F.S.; revising a requirement for
19 testing the accuracy of devices used to measure petroleum
20 fuel; amending s. 526.51, F.S.; revising requirements for
21 registering a brand of brake fluid for sale in the state;
22 requiring an applicant that does not own the brand name of
23 a brake fluid to submit a notarized affidavit to the
24 department in order to register that product; revising the
25 amount of the sample of brake fluid required to be
26 submitted to the department; amending s. 527.04, F.S.;
27 revising provisions requiring proof of liability insurance
28 coverage prior to licensure under ch. 527, F.S., relating

29 to the sale of liquefied petroleum gas; amending s.
 30 527.07, F.S.; prohibiting a person other than the owner or
 31 other authorized person from removing gas from a liquefied
 32 petroleum gas container or receptacle for any gas or
 33 compound; creating s. 576.092, F.S.; creating the Consumer
 34 Fertilizer Task Force; providing legislative findings;
 35 providing for task force membership and appointment of a
 36 chair and vice chair; requiring the department to staff
 37 the task force; requiring a report to the Legislature by a
 38 time certain; providing for abolition of the task force;
 39 providing a moratorium on promulgation of rules,
 40 ordinances, or regulations related to fertilizers during a
 41 time certain; providing exceptions; providing an
 42 appropriation; providing an effective date.

43

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

45

46 Section 1. Subsection (5) of section 493.6203, Florida
 47 Statutes, is renumbered as subsection (6) and amended, present
 48 subsection (6) is renumbered as subsection (7), and a new
 49 subsection (5) is added to that section, to read:

50 493.6203 License requirements.--In addition to the license
 51 requirements set forth elsewhere in this chapter, each
 52 individual or agency shall comply with the following additional
 53 requirements:

54 (5) Effective January 1, 2008, an applicant for a Class
 55 "MA," Class "M," or Class "C" license must pass an examination
 56 that covers the provisions of this chapter and is administered

57 by the department or by a provider approved by the department.
58 The applicant must pass the examination before applying for
59 licensure and shall submit proof with the license application on
60 a form approved by rule of the department that he or she has
61 passed the examination. The administrator of the examination
62 must verify the identity of each applicant taking the
63 examination.

64 (a) The examination requirement in this subsection does
65 not apply to an individual who holds a valid Class "CC," Class
66 "C," Class "MA," or Class "M" license.

67 (b) Notwithstanding the exemption provided in paragraph
68 (a), if the license of an applicant for relicensure has been
69 invalid for more than 1 year, the applicant must take and pass
70 the examination.

71 (c) The department shall establish by rule the content of
72 the examination, the manner and procedure of its administration,
73 and an examination fee that may not exceed \$100.

74 (6) (a) ~~(5)~~ A Class "CC" licensee shall serve an internship
75 under the direction and control of a designated sponsor, who is
76 a Class "C," Class "MA," or Class "M" licensee.

77 (b) Effective September 1, 2008, an applicant for a Class
78 "CC" license must have completed at least 24 hours of a 40-hour
79 course pertaining to general investigative techniques and this
80 chapter, which course is offered by a state university or by a
81 school, community college, college, or university under the
82 purview of the Department of Education, and must pass an
83 examination. The certificate evidencing satisfactory completion
84 of at least 24 hours of a 40-hour course must be submitted with

85 the application for a Class "CC" license. The remaining 16 hours
86 must be completed and an examination passed within 180 days. If
87 documentation of completion of the required training is not
88 submitted within the specified timeframe, the individual's
89 license is automatically suspended or his or her authority to
90 work as a Class "CC" pursuant to s. 493.6105(9) is rescinded
91 until such time as proof of certificate of completion is
92 provided to the department. The training course specified in
93 this paragraph may be provided by face-to-face presentation, on-
94 line technology, or a home study course in accordance with rules
95 and procedures of the Department of Education. The administrator
96 of the examination must verify the identity of each applicant
97 taking the examination.

98 1. Upon an applicant's successful completion of each part
99 of the approved course and passage of any required examination,
100 the school, community college, college, or university shall
101 issue a certificate of completion to the applicant. The
102 certificates must be on a form established by rule of the
103 department.

104 2. The department shall establish by rule the general
105 content of the training course and the examination criteria.

106 3. If the license of an applicant for relicensure has been
107 invalid for more than 1 year, the applicant must complete the
108 required training and pass any required examination.

109 Section 2. Subsection (7) of section 493.6401, Florida
110 Statutes, is amended to read:

111 493.6401 Classes of licenses.--

112 (7) Any person who operates a repossessor school or
 113 training facility or who conducts an Internet-based training
 114 course or a correspondence training course must ~~shall~~ have a
 115 Class "RS" license.

116 Section 3. Subsection (1) and paragraph (b) of subsection
 117 (2) of section 493.6406, Florida Statutes, are amended to read:

118 493.6406 Repossession services school or training
 119 facility.--

120 (1) Any school, training facility, or instructor who
 121 offers the training outlined in s. 493.6403(2) for Class "EE"
 122 applicants shall, before licensure of such school, training
 123 facility, or instructor, file with the department an application
 124 accompanied by an application fee in an amount to be determined
 125 by rule, not to exceed \$60. The fee shall not be refundable.
 126 This training may be offered as face-to-face training, Internet-
 127 based training, or correspondence training.

128 (2) The application shall be signed and notarized and
 129 shall contain, at a minimum, the following information:

130 (b) The street address of the place at which the face-to-
 131 face training is to be conducted or the street address of the
 132 Class "RS" school offering Internet-based or correspondence
 133 training.

134 Section 4. Section 501.921, Florida Statutes, is amended
 135 to read:

136 501.921 Standards.--The department's rules for standards,
 137 definitions, and test procedures for antifreeze may encompass
 138 those specified by ASTM International ~~the American Society for~~
 139 ~~Testing and Materials~~. The department may adopt any other

140 specification it considers appropriate to protect consumers from
 141 questionable formulations of antifreeze.

142 Section 5. Subsection (9) of section 525.07, Florida
 143 Statutes, is amended to read:

144 525.07 Powers and duties of department; inspections;
 145 unlawful acts.--

146 (9) All persons and service agencies that adjust the
 147 accuracy of a petroleum fuel measuring device must use test
 148 measures that have been calibrated with standards traceable to
 149 the National Institute of Standards and Technology within 1 year
 150 prior to the date of the adjustment for volumes of less than 500
 151 gallons and within 3 years prior to the date of the adjustment
 152 for volumes of 500 gallons or more.

153 Section 6. Subsection (1) of section 526.51, Florida
 154 Statutes, is amended to read:

155 526.51 Registration; renewal and fees; departmental
 156 expenses; cancellation or refusal to issue or renew.--

157 (1)(a) Application for registration of each brand of brake
 158 fluid shall be made on forms to be supplied by the department.
 159 The applicant shall give his or her name and address and, the
 160 brand name of the brake fluid, state that he or she owns the
 161 ~~said~~ brand name and has complete control over the product sold
 162 thereunder in Florida, and provide the name and address of the
 163 resident agent in Florida. If the applicant does not own the
 164 brand name but wishes to register the product with the
 165 department, a notarized affidavit that gives the applicant full
 166 authorization to register the brand name and that is signed by
 167 the owner of the brand name must accompany the application for

168 registration. The affidavit must include all affected brand
169 names, the owner's company or corporate name and address, the
170 applicant's company or corporate name and address, and a
171 statement from the owner authorizing the applicant to register
172 the product with the department. The owner of the brand name
173 shall maintain complete control over each product sold under
174 that brand name in this state. All new product applications must
175 ~~Application shall~~ be accompanied by a certified report from ~~of~~
176 an independent testing laboratory, setting forth the analysis of
177 the said brake fluid, which shall show its quality to be not
178 less than the specifications established by the department for
179 brake fluids. A sample of not less than 24 fluid ounces ~~one half~~
180 ~~gallon~~ of brake fluid shall be submitted, in a container or
181 containers, with labels representing ~~labeled~~ exactly how the ~~as~~
182 containers of brake fluid will be labeled when sold, and such
183 sample and container shall be analyzed and inspected by the
184 Division of Standards in order that compliance with the
185 department's specifications and labeling requirements may be
186 verified. Upon approval of such application, the department
187 shall register the brand name of such brake fluid and issue to
188 the applicant a permit authorizing the registrant to sell such
189 brake fluid in this state during the permit year specified in
190 the permit.

191 (b) Each applicant shall pay a fee of \$100 with each
192 application. A permit may be renewed by application to the
193 department, accompanied by a renewal fee of \$50 on or before the
194 last day of the permit year immediately preceding the permit
195 year for which application is made for renewal of registration.

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196 To any fee not paid when due, there shall accrue a penalty of
 197 \$25 which shall be added to the renewal fee. Renewals will be
 198 accepted only on brake fluids that ~~which~~ have no change in
 199 formula, composition, or brand name. Any change in formula,
 200 composition, or brand name of any brake fluid constitutes ~~shall~~
 201 ~~constitute~~ a new product that must ~~which shall~~ be registered in
 202 accordance with the provisions of this part.

203 Section 7. Section 527.04, Florida Statutes, is amended to
 204 read:

205 527.04 Proof of insurance required.--

206 (1) Before any license is issued, except to a dealer in
 207 appliances and equipment for use of liquefied petroleum gas or a
 208 category III liquefied petroleum gas cylinder exchange operator,
 209 the applicant must deliver to the department satisfactory
 210 evidence that the applicant is covered by a primary policy of
 211 bodily injury liability and property damage liability insurance
 212 that covers the products and operations with respect to such
 213 business and is issued by an insurer authorized to do business
 214 in this state for an amount not less than \$1 million and that
 215 the premium on such insurance is paid. An insurance certificate,
 216 affidavit, or other satisfactory evidence of acceptable
 217 insurance coverage shall be accepted as proof of insurance. In
 218 lieu of an insurance policy, the applicant may deliver a good
 219 and sufficient bond in the amount of \$1 million, payable to the
 220 Governor of Florida, with the applicant as principal and a
 221 surety company authorized to do business in this state as
 222 surety. The bond must be conditioned upon the applicant's
 223 ~~principal's~~ compliance with the provisions of this chapter and

224 the rules of the department with respect to the conduct of such
 225 business and shall indemnify and hold harmless all persons from
 226 loss or damage by reason of the applicant's ~~principal's~~ failure
 227 to comply. However, the aggregated liability of the surety may
 228 not exceed \$1 million. If the insurance policy is canceled or
 229 otherwise terminated or the bond becomes insufficient, the
 230 department may require new proof of insurance or a new bond to
 231 be filed, and, if the licenseholder ~~principal~~ fails to comply ~~de~~
 232 ~~se~~, the department shall cancel the license issued and give the
 233 licenseholder ~~principal~~ written notice that it is unlawful to
 234 engage in business without a license. ~~If the applicant furnishes~~
 235 ~~satisfactory evidence that he or she is covered by a primary~~
 236 ~~policy of bodily injury liability and property damage liability~~
 237 ~~insurance covering the products and operations with respect to~~
 238 ~~such business, issued by an insurer authorized to do business in~~
 239 ~~the state, for an amount not less than \$1 million and that the~~
 240 ~~premiums on such insurance are paid, an insurance affidavit or~~
 241 ~~other satisfactory evidence of acceptable insurance coverage~~
 242 ~~shall be accepted in lieu of the bond.~~ A new bond is not
 243 required as long as the original bond remains sufficient and in
 244 force. If the licenseholder's insurance coverage ~~coverages~~ as
 245 required by this subsection is ~~are~~ canceled or otherwise
 246 terminated, the insurer must notify the department within 30
 247 days after such cancellation or termination.

248 (2) Before any license is issued to a class III liquefied
 249 petroleum gas cylinder exchange operator, the applicant must
 250 deliver to the department satisfactory evidence that the
 251 applicant is covered by a primary policy of bodily injury

252 liability and property damage liability insurance that covers
253 the products and operations with respect to such business and is
254 issued by an insurer authorized to do business in this state for
255 an amount not less than \$300,000 and that the premium on such
256 insurance is paid. An insurance certificate, affidavit, or other
257 satisfactory evidence of acceptable insurance coverage shall be
258 accepted as proof of insurance. In lieu of an insurance policy,
259 the applicant may deliver a good and sufficient bond in the
260 amount of \$300,000, payable to the Governor, with the applicant
261 as principal and a surety company authorized to do business in
262 this state as surety. The bond must be conditioned upon the
263 applicant's ~~principal's~~ compliance with this chapter and the
264 rules of the department with respect to the conduct of such
265 business and must indemnify and hold harmless all persons from
266 loss or damage by reason of the applicant's ~~principal's~~ failure
267 to comply. However, the aggregated liability of the surety may
268 not exceed \$300,000. If the insurance policy is canceled or
269 otherwise terminated or the bond becomes insufficient, the
270 department may require new proof of insurance or a new bond to
271 be filed, and, if the licenseholder ~~principal~~ fails to comply de
272 ~~se~~, the department shall cancel the license issued and give the
273 licenseholder ~~principal~~ written notice that it is unlawful to
274 engage in business without a license. ~~If the applicant furnishes~~
275 ~~satisfactory evidence that he or she is covered by a primary~~
276 ~~policy of bodily injury liability and property damage liability~~
277 ~~insurance covering the products and operations with respect to~~
278 ~~such business, issued by an insurer authorized to do business in~~
279 ~~the state, for an amount not less than \$300,000 and that the~~

280 ~~premiums on such insurance are paid, an insurance affidavit or~~
 281 ~~other satisfactory evidence of acceptable insurance coverage~~
 282 ~~shall be accepted in lieu of the bond.~~ A new bond is not
 283 required as long as the original bond remains sufficient and in
 284 force. If the licenseholder's insurance coverage ~~coverages~~
 285 required by this subsection is ~~are~~ canceled or otherwise
 286 terminated, the insurer must notify the department within 30
 287 days after such cancellation or termination.

288 (3) Any person having a cause of action on such bond may
 289 bring suit against the principal and surety, and a copy of such
 290 bond duly certified by the department shall be received in
 291 evidence in the courts of this state without further proof. The
 292 department shall furnish a certified copy of such bond upon
 293 payment to it of its lawful fee for making and certifying such
 294 copy.

295 Section 8. Section 527.07, Florida Statutes, is amended to
 296 read:

297 527.07 Restriction on use of containers.--No person, other
 298 than the owner and those authorized by the owner, shall sell,
 299 fill, refill, remove gas from, deliver, permit to be delivered,
 300 or use in any manner any liquefied petroleum gas container or
 301 receptacle for any gas or compound, or for any other purpose.

302 Section 9. Section 576.092, Florida Statutes, is created
 303 to read:

304 576.092 Consumer Fertilizer Task Force.--

305 (1) The Legislature finds that:

306 (a) There is a need for better training and education
 307 regarding the proper use of consumer fertilizers.

308 (b) There should exist a mechanism to help local
309 governments promote and encourage the proper use of fertilizers,
310 thereby eliminating or minimizing the potential for
311 environmental impacts.

312 (c) Local government regulation of fertilizer uses for
313 nonagricultural applications should be based on sound science,
314 including water quality, agronomics, and horticulture.

315 (d) There is a need for education regarding the use of
316 consumer fertilizers.

317 (e) There is a need for improved standards regarding
318 nonagricultural fertilizer use and application.

319 (f) While the constituents in fertilizer are naturally
320 occurring in the environment, the improper use of fertilizer can
321 be one of many contributors to nonpoint source pollution.

322 (g) The state's local governments are potentially subject
323 to regulatory enforcement action by state or federal entities as
324 a result of nonpoint source pollution caused by stormwater
325 runoff.

326 (2) (a) There is hereby created the Consumer Fertilizer
327 Task Force within the Department of Agriculture and Consumer
328 Services for the purposes of:

329 1. Assessing existing data and information regarding
330 nutrient enrichment in surface waters due to fertilizers,
331 assessing management strategies for reducing water quality
332 impacts associated with fertilizer, and identifying additional
333 research needs.

334 2. Developing statewide guidelines governing
335 nonagricultural fertilizer use rates, formulations, and

336 applications with attention to the geographic regions identified
337 in rule 5E-1.003, Florida Administrative Code.

338 3. Taking public input and testimony concerning the issues
339 in this section.

340 4. Recommending methods to ensure that local ordinances
341 are based on best available data and science and to achieve
342 uniformity among local government ordinances where possible,
343 unless local ordinance variations are necessary to meet mandated
344 state and federal water quality standards.

345 5. Developing model ordinances for municipalities and
346 counties concerning the use of nonagricultural fertilizer.

347 (b)1. The task force shall consist of 13 members who are
348 technically qualified by training, education, or experience in
349 water quality, horticultural, or agronomic science, and who
350 shall be appointed as follows: three members appointed by the
351 President of the Senate, one of whom shall be a representative
352 from the Department of Environmental Protection, one of whom
353 shall be a representative of the environmental community, and
354 one of whom shall be a member of the Senate; three members
355 appointed by the Speaker of the House of Representatives, one of
356 whom shall be a representative from a water management district,
357 one of whom shall be a representative of the University of
358 Florida's Institute for Food and Agricultural Sciences, and one
359 of whom shall be a member of the House of Representatives; five
360 representatives appointed by the Commissioner of Agriculture,
361 one of whom shall be a representative from the Department of
362 Agriculture and Consumer Services, one of whom shall be a
363 representative from the Office of Agricultural Water Policy, one

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364 of whom shall be a representative from the national fertilizer
365 industry, one of whom shall be a representative from the
366 Florida-based fertilizer industry, and one of whom shall be a
367 registered landscape architect; one member appointed by the
368 Florida League of Cities, Inc.; and one member appointed by the
369 Florida Association of Counties.

370 2. Members shall choose a chair and vice chair from the
371 membership of the task force.

372 (3) Staffing for the task force shall be provided by the
373 Department of Agriculture and Consumer Services.

374 (4) The task force shall review and evaluate the issues
375 identified in paragraph (2) (a) and take public testimony. A
376 report of the recommendations and findings of the task force,
377 including recommendations for statutory changes, if any, shall
378 be submitted to the Speaker of the House of Representatives and
379 the President of the Senate by January 15, 2008, and the task
380 force shall be abolished upon the transmittal of the report.

381 (5) Beginning May 1, 2007, through May 2, 2008, no
382 municipality, county, or other governmental subdivision shall
383 promulgate any fertilizer rule, ordinance, or regulation pending
384 the completion and transmittal of the task force report;
385 however, this moratorium does not apply if the rule, ordinance,
386 or regulation is promulgated in an effort to seek compliance
387 with water quality standards.

388 Section 10. The sum of \$58,559 is appropriated for the
389 2007-2008 fiscal year from the Licensing Trust Fund to the
390 Department of Agriculture and Consumer Services for the purpose

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391 | of developing curriculum and administering examinations to
392 | applicants for licensure as private investigators.

393 | Section 11. This act shall take effect July 1, 2007.