

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 482.021, F.S.; revising
4 terminology to modify requirements for supervision
5 provided by certified operators in charge of pest control
6 businesses; amending s. 482.051, F.S.; requiring pest
7 control licensees to perform inspections before issuing
8 certain contracts; amending s. 482.071, F.S.; increasing
9 the financial responsibility requirements for pest control
10 licensees; creating s. 482.072, F.S.; requiring pest
11 control service center licenses; providing license
12 application requirements and procedures; providing for
13 expiration and renewal of licenses; establishing license
14 fees; exempting pest control service center employees from
15 identification card requirements except under certain
16 circumstances; requiring recordkeeping and monitoring of
17 service center operations; authorizing disciplinary action
18 against pest control licensees for violations committed by
19 service center employees; amending s. 482.152, F.S.;
20 revising duties and supervisory requirements of certified
21 operators in charge of pest control businesses; creating
22 s. 482.157, F.S.; providing for pest control certification
23 of commercial wildlife management personnel; providing
24 application procedures and requirements; requiring a
25 certification examination; establishing certification
26 fees; amending s. 482.163, F.S.; authorizing disciplinary
27 action against pest control licensees for violations by
28 employees under certain circumstances; limiting the

29 grounds for disciplinary action against a certified
30 operator in charge; requiring notices of administrative
31 actions taken against pest control employees; amending s.
32 482.226, F.S.; increasing the financial responsibility
33 requirements for certain pest control licensees; amending
34 s. 493.6102, F.S.; specifying that provisions regulating
35 security officers do not apply to certain officers
36 performing off-duty activities; amending s. 493.6105,
37 F.S.; revising application requirements and procedures for
38 private investigator, security officer, or recovery agent
39 licenses; specifying application requirements for firearms
40 instructor license; amending s. 493.6106, F.S.; revising
41 citizenship requirements and documentation for private
42 investigator, security officer, and recovery agent
43 licenses; prohibiting the licensure of applicants for a
44 statewide firearm license or firearms instructor license
45 who are prohibited from purchasing or possessing firearms;
46 requiring notice of changes to branch office locations for
47 private investigative, security, or recovery agencies;
48 amending s. 493.6107, F.S.; requiring the department to
49 accept certain methods of payment for certain fees;
50 amending s. 493.6108, F.S.; revising requirements for
51 criminal history checks of license applicants whose
52 fingerprints are not legible; requiring investigation of
53 the mental and emotional fitness of applicants for
54 firearms instructor licenses; amending s. 493.6111, F.S.;
55 requiring a security officer school or recovery agent
56 school to obtain the department's approval for use of a

57 fictitious name; amending s. 493.6113, F.S.; revising
58 application renewal procedures and requirements; amending
59 s. 493.6115, F.S.; conforming cross-references; amending
60 s. 493.6118, F.S.; authorizing disciplinary action against
61 statewide firearm licensees and firearms instructor
62 licensees who are prohibited from purchasing or possessing
63 firearms; amending s. 493.6121, F.S.; deleting provisions
64 for the department's access to certain criminal history
65 records provided to licensed gun dealers, manufactures,
66 and exporters; amending s. 493.6202, F.S.; requiring the
67 department to accept certain methods of payment for
68 certain fees; amending s. 493.6203, F.S.; prohibiting
69 bodyguard services from being credited toward certain
70 license requirements; revising training requirements for
71 private investigator intern license applicants; amending
72 s. 493.6302, F.S.; requiring the department to accept
73 certain methods of payment for certain fees; amending s.
74 493.6303, F.S.; revising the training requirements for
75 security officer license applicants; amending s. 493.6304,
76 F.S.; revising application requirements and procedures for
77 security officer school licenses; amending s. 493.6401,
78 F.S.; revising terminology for recovery agent schools and
79 training facilities; amending s. 493.6402, F.S.; revising
80 terminology for recovery agent schools and training
81 facilities; requiring the department to accept certain
82 methods of payment for certain fees; amending s. 493.6406,
83 F.S.; requiring recovery agent school and instructor
84 licenses; providing license application requirements and

85 | procedures; amending s. 500.03, F.S.; revising the term
86 | "food establishment" to include tomato repackers for
87 | purposes of the Florida Food Safety Act; creating s.
88 | 500.70, F.S.; defining terms; requiring minimum food
89 | safety standards for producing, harvesting, packing, and
90 | repacking tomatoes; authorizing the department to inspect
91 | tomato farms, greenhouses, and packinghouses or repackers;
92 | providing penalties; authorizing the department to
93 | establish good agricultural practices and best management
94 | practices for the tomato industry by rule; providing a
95 | presumption that tomatoes introduced into commerce are
96 | safe for human consumption under certain circumstances;
97 | authorizing the department to adopt rules; amending ss.
98 | 501.605 and 501.607, F.S.; revising application
99 | requirements for commercial telephone seller and
100 | salesperson licenses; amending s. 501.913, F.S.;
101 | specifying the sample size required for antifreeze
102 | registration application; amending s. 525.01, F.S.;
103 | revising requirements for petroleum fuel affidavits;
104 | amending s. 525.09, F.S.; imposing an inspection fee on
105 | certain alternative fuels containing alcohol; amending s.
106 | 526.50, F.S.; defining terms applicable to regulation of
107 | the sale of brake fluid; amending s. 526.51, F.S.;
108 | revising brake fluid permit application requirements;
109 | deleting permit renewal requirements; providing for
110 | reregistration of brake fluid and establishing fees;
111 | amending s. 526.52, F.S.; revising requirements for
112 | printed statements on brake fluid containers; amending s.

113 526.53, F.S.; revising requirements and procedures for
114 brake fluid stop-sale orders; authorizing businesses to
115 dispose of unregistered brake fluid under certain
116 circumstances; amending s. 527.02, F.S.; increasing fees
117 for liquefied petroleum gas licenses; revising fees for
118 pipeline system operators; amending s. 527.0201, F.S.;
119 revising requirements for liquefied petroleum gas
120 qualifying examinations; increasing examination fees;
121 increasing continuing education requirements for certain
122 liquefied petroleum gas qualifiers; amending s. 527.021,
123 F.S.; requiring the annual inspection of liquefied
124 petroleum gas transport vehicles; increasing the
125 inspection fee; amending s. 527.12, F.S.; providing for
126 the issuance of certain stop orders; amending ss. 559.805
127 and 559.928, F.S.; deleting requirements that lists of
128 independent agents of sellers of business opportunities
129 and the agents' registration affidavits include the
130 agents' social security numbers; amending s. 570.07, F.S.;
131 authorizing the department to adopt best management
132 practices for agricultural production and food safety;
133 amending s. 570.0725, F.S.; revising provisions for public
134 information about food banks and similar food recovery
135 programs; authorizing the department to adopt rules;
136 amending s. 570.48, F.S.; revising duties of the Division
137 of Fruit and Vegetables for tomato food safety
138 inspections; amending ss. 570.53 and 570.54, F.S.;
139 conforming cross-references; amending s. 570.55, F.S.;
140 revising requirements for identifying sellers or handlers

141 of tropical or subtropical fruit or vegetables; amending
 142 s. 570.902, F.S.; conforming terminology to the repeal by
 143 the act of provisions establishing the Florida
 144 Agricultural Museum; amending s. 570.903, F.S.; revising
 145 provisions for direct-support organizations for certain
 146 agricultural programs to conform to the repeal by the act
 147 of provisions establishing the Florida Agricultural
 148 Museum; deleting provisions for a direct-support
 149 organization for the Florida State Collection of
 150 Arthropods; amending s. 581.011, F.S.; deleting
 151 terminology relating to the Florida State Collection of
 152 Arthropods; revising the term "nursery" for purposes of
 153 plant industry regulations; amending s. 581.031, F.S.;
 154 increasing citrus source tree registration fees; amending
 155 s. 581.131, F.S.; increasing registration fees for a
 156 nurseryman, stock dealer, agent, or plant broker
 157 certificate; amending s. 581.211, F.S.; increasing the
 158 maximum fine for violations of plant industry regulations;
 159 amending s. 583.13, F.S.; deleting a prohibition on the
 160 sale of poultry without displaying the poultry grade;
 161 amending s. 590.125, F.S.; revising terminology for open
 162 burning authorizations; specifying purposes of certified
 163 prescribed burning; requiring the authorization of the
 164 Division of Forestry for certified pile burning; providing
 165 pile burning requirements; limiting the liability of
 166 property owners or agents engaged in pile burning;
 167 providing for the certification of pile burners; providing
 168 penalties for violations by certified pile burners;

169 requiring rules; revising notice requirements for wildfire
170 hazard reduction treatments; providing for approval of
171 local government open burning authorization programs;
172 providing program requirements; authorizing the division
173 to close local government programs under certain
174 circumstances; providing penalties for violations of local
175 government open burning requirements; amending s. 590.14,
176 F.S.; authorizing fines for violations of any division
177 rule; providing penalties for certain violations;
178 providing legislative intent; amending s. 599.004, F.S.;
179 revising standards that a winery must meet to qualify as a
180 certified Florida Farm Winery; amending s. 604.15, F.S.;
181 revising the term "agricultural products" to make tropical
182 foliage exempt from regulation under provisions relating
183 to dealers in agricultural products; defining the term
184 "responsible position"; amending s. 604.19, F.S.; revising
185 requirements for late fees on agricultural products dealer
186 applications; amending s. 604.20, F.S.; revising the
187 minimum amount of the surety bond or certificate of
188 deposit required for agricultural products dealer
189 licenses; providing conditions for the payment of bond or
190 certificate of deposit proceeds; requiring additional
191 documentation for issuance of a conditional license;
192 amending s. 604.25, F.S.; revising conditions under which
193 the department may deny, refuse to renew, suspend, or
194 revoke agricultural products dealer licenses; deleting a
195 provision prohibiting certain persons from holding a
196 responsible position with a licensee; amending s. 616.242,

197 F.S.; authorizing the issuance of stop-operation orders
 198 for amusement rides under certain circumstances; amending
 199 s. 790.06, F.S.; authorizing a concealed firearm license
 200 applicant to submit fingerprints administered by the
 201 Division of Licensing; repealing ss. 570.071 and 570.901,
 202 F.S., relating to the Florida Agricultural Exposition and
 203 the Florida Agricultural Museum; providing an effective
 204 date.

205

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

207

208 Section 1. Subsections (5) and (7) of section 482.021,
 209 Florida Statutes, are amended to read:

210 482.021 Definitions.--For the purposes of this chapter,
 211 and unless otherwise required by the context, the term:

212 (5) "Certified operator in charge" means a certified
 213 operator:

214 (a) Whose primary occupation is the pest control business;

215 (b) Who is employed full time by a licensee; and

216 (c) Whose principal duty is the ~~personal~~ supervision of
 217 the licensee's operation in a category or categories of pest
 218 control in which the operator is certified.

219 (7) "Employee" means a person who is employed by a
 220 licensee that provides that person with necessary training,
 221 supervision, pesticides, equipment, and insurance and who
 222 receives compensation from and is under the ~~personal~~ supervision
 223 ~~and direct control~~ of the licensee's certified operator in
 224 charge and from whose compensation the licensee regularly

CS/HB 1447

2009

225 deducts and matches federal insurance contributions and federal
 226 income and Social Security taxes.

227 Section 2. Subsection (3) of section 482.051, Florida
 228 Statutes, is amended to read:

229 482.051 Rules.--The department has authority to adopt
 230 rules pursuant to ss. 120.536(1) and 120.54 to implement the
 231 provisions of this chapter. Prior to proposing the adoption of a
 232 rule, the department shall counsel with members of the pest
 233 control industry concerning the proposed rule. The department
 234 shall adopt rules for the protection of the health, safety, and
 235 welfare of pest control employees and the general public which
 236 require:

237 (3) That written contracts be required for providing
 238 termites and other wood-destroying organisms pest control, that
 239 provisions necessary to assure consumer protection as specified
 240 by the department be included in such contracts, that licensees
 241 perform an inspection before issuing a contract on an existing
 242 structure, and that ~~require~~ licensees ~~to~~ comply with the
 243 contracts issued.

244 Section 3. Subsection (4) of section 482.071, Florida
 245 Statutes, is amended to read:

246 482.071 Licenses.--

247 (4) A licensee may not operate a pest control business
 248 without carrying the required insurance coverage. Each person
 249 making application for a pest control business license or
 250 renewal thereof must furnish to the department a certificate of
 251 insurance that meets the requirements for minimum financial
 252 responsibility for bodily injury and property damage consisting

253 of:

254 (a) Bodily injury: \$250,000 ~~\$100,000~~ each person and
 255 \$500,000 ~~\$300,000~~ each occurrence; and property damage: \$250,000
 256 ~~\$50,000~~ each occurrence and \$500,000 ~~\$100,000~~ in the aggregate;
 257 or

258 (b) Combined single-limit coverage: \$500,000 ~~\$400,000~~ in
 259 the aggregate.

260 Section 4. Section 482.072, Florida Statutes, is created
 261 to read:

262 482.072 Pest control service centers.--

263 (1) The department may issue a license to a qualified
 264 business to operate a pest control service center, to solicit
 265 pest control business, or to provide services to customers for
 266 one or more business locations licensed under s. 482.071. A
 267 person may not operate a centralized service center for a pest
 268 control business that is not licensed by the department.

269 (2) (a) Before operating a pest control service center, and
 270 biennially thereafter, on or before an anniversary date set by
 271 the department for the licensed pest control service center
 272 location, the pest control business must apply to the department
 273 for a license under this chapter, or a renewal thereof, for each
 274 pest control service center location. An application must be
 275 submitted in the format prescribed by the department.

276 (b) The department shall establish a fee for the issuance
 277 of a pest control service center license of at least \$500, but
 278 not more than \$1,000, and a fee for the renewal of a license of
 279 at least \$500, but not more than \$1,000; however, until rules
 280 setting the fees are adopted by the department, the initial

281 license and renewal fees are each set at \$500. The department
282 shall establish a grace period, not to exceed 30 calendar days
283 after a license's anniversary renewal date. The department shall
284 assess a late renewal fee of \$150, in addition to the renewal
285 fee, to a business that renews its license after the grace
286 period.

287 (c) A license automatically expires 60 calendar days after
288 the anniversary renewal date unless the license is renewed
289 before that date. Once a license expires, it may be reinstated
290 only upon reapplication and payment of the license fee and late
291 renewal fee.

292 (d) A license automatically expires when a licensee
293 changes its pest control service center business location
294 address. The department shall issue a new license upon payment
295 of a \$250 fee. The new license automatically expires 60 calendar
296 days after the anniversary renewal date of the former license
297 unless the license is renewed before that date.

298 (e) The department may not issue or renew a license to
299 operate a centralized pest control service center unless the
300 pest control business licensees for whom the centralized service
301 center solicits business have one or more common owners.

302 (f) The department may deny the issuance of a pest control
303 service center license, or refuse to renew a license, if the
304 department finds that the applicant or licensee, or any of its
305 directors, officers, owners, or general partners, are or were
306 directors, officers, owners, or general partners of a pest
307 control business described in s. 482.071(2)(g) or violated a
308 rule adopted under s. 482.071(2)(f).

CS/HB 1447

2009

309 (g) Section 482.091 does not apply to a person who
310 solicits pest control services or provides customer service in a
311 licensed pest control service center unless the person performs
312 the pest control work described in s. 482.021(21)(a)-(d),
313 executes a pest control contract, or accepts remuneration for
314 such work.

315 (3)(a) The department shall adopt rules establishing
316 requirements and procedures for recordkeeping and monitoring of
317 pest control service center operations to ensure compliance with
318 this chapter and rules adopted under this chapter.

319 (b) Notwithstanding s. 482.163, whether an employee acts
320 outside of the course and scope of his or her employment or
321 whether the employee disobeys employer policies:

322 1. A pest control service center licensee may be subject
323 to disciplinary action under s. 482.161 for a violation of this
324 chapter or a rule adopted under this chapter committed by an
325 employee of the service center.

326 2. A pest control business licensee may be subject to
327 disciplinary action under s. 482.161 for a violation committed
328 by an employee of the service center if the business licensee
329 benefits from the violation.

330 Section 5. Section 482.152, Florida Statutes, is amended
331 to read:

332 482.152 Duties of certified operator in charge of pest
333 control activities of licensee.--A certified operator in charge
334 of the pest control activities of a licensee shall have her or
335 his primary occupation with the licensee and shall be a full-
336 time employee of the licensee. The, and her or his principal

337 duties of the certified operator in charge ~~duty~~ shall include:

338 (1) The Responsibility for the ~~personal~~ supervision of,
 339 and participation in, the pest control activities of ~~at~~ the
 340 business location of the licensee. This chapter does not prevent
 341 a certified operator in charge from performing duties at other
 342 business locations owned by the licensee if:

343 (a) The certified operator in charge performs her or his
 344 duties as provided in this section for the business location of
 345 the licensee.

346 (b) The certified operator in charge is a full-time
 347 employee of the licensee.

348 (c) The primary occupation of the certified operator in
 349 charge is the pest control business. ~~as the same relate to:~~

350 (2) ~~(1)~~ The Selection of proper and correct chemicals for
 351 the particular pest control work performed.

352 (3) ~~(2)~~ The Safe and proper use of the pesticides used.

353 (4) ~~(3)~~ The Correct concentration and formulation of
 354 pesticides used in all pest control work performed.

355 (5) ~~(4)~~ The Training of personnel in the proper and
 356 acceptable methods of pest control.

357 (6) ~~(5)~~ The Control measures and procedures used.

358 (7) ~~(6)~~ The Notification of the department of any
 359 accidental human poisoning or death connected with pest control
 360 work performed on a job she or he is supervising, within 24
 361 hours after she or he has knowledge of the poisoning or death.

362 Section 6. Section 482.157, Florida Statutes, is created
 363 to read:

364 482.157 Limited certification for commercial wildlife

CS/HB 1447

2009

365 management personnel.--

366 (1) The department shall establish a limited certification
367 category for individual commercial wildlife management personnel
368 which authorizes the personnel to use nonchemical methods for
369 controlling pest birds or rodents, including, but not limited
370 to, the use of traps, glue boards, mechanical or electronic
371 devices, or exclusionary techniques.

372 (2) A person seeking limited certification under this
373 section must pass an examination administered by the department.
374 An application for examination must be accompanied by an
375 examination fee set by rule of the department of at least \$150
376 but not to exceed \$300. The department shall provide the
377 appropriate reference materials for the examination and make the
378 examination readily available to applicants at least quarterly
379 or as often as necessary in each county. Before the department
380 issues a limited certification under this section, the person
381 applying for certification must furnish proof that he or she
382 holds a certificate of insurance stating that his or her
383 employer meets the requirements for minimum financial
384 responsibility in s. 482.071(4).

385 (3) An application for recertification under this section
386 must be submitted biennially and must be accompanied by a
387 recertification fee set by rule of the department of at least
388 \$150 but not to exceed \$300. The application must also be
389 accompanied by proof that:

390 (a) The applicant completed 4 classroom hours of
391 acceptable continuing education.

392 (b) The applicant holds a certificate of insurance stating

393 that his or her employer meets the requirements for minimum
394 financial responsibility in s. 482.071(4).

395 (4) The department shall establish a grace period, not to
396 exceed 30 calendar days after a biennial date established by the
397 department on which recertification is due. The department shall
398 assess a late charge of \$50, in addition to the recertification
399 fee, to commercial wildlife management personnel who are
400 recertified after the grace period.

401 (5) A limited certification automatically expires 180
402 calendar days after the biennial date on which recertification
403 is due unless the commercial wildlife personnel are recertified
404 before the certification expires. Once a certification expires,
405 certification may be issued only upon successful reexamination
406 and payment of the examination fees.

407 (6) Certification under this section does not authorize:

408 (a) Use of any pesticide or chemical substance, other than
409 adhesive materials, to control pest birds, rodents, or other
410 nuisance wildlife in, on, or under a structure.

411 (b) Operation of a pest control business.

412 (c) Supervision of a certified person.

413 Section 7. Section 482.163, Florida Statutes, is amended
414 to read:

415 482.163 Responsibility for pest control activities of
416 employee.--Proper performance of pest control activities by a
417 pest control business employee is the responsibility not only of
418 the employee but also of the licensee and the certified operator
419 in charge, and the licensee and certified operator in charge may
420 be subject to disciplinary action under ~~disciplined pursuant to~~

421 ~~the provisions of s. 482.161 for the pest control activities of~~
 422 ~~an employee unless the employee acts outside of the course and~~
 423 ~~scope of his or her employment or the employee disobeys employer~~
 424 ~~policies that the licensee and certified operator in charge~~
 425 ~~regularly and consistently enforce. If an administrative action~~
 426 ~~resulting from an inspection or investigation is initiated~~
 427 ~~against an employee of the licensee, the department shall notify~~
 428 ~~the licensee and certified operator in charge so that corrective~~
 429 ~~action may be taken. A licensee may not automatically be~~
 430 ~~considered responsible for violations made by an employee.~~
 431 ~~However, the licensee may not knowingly encourage, aid, or abet~~
 432 ~~violations of this chapter.~~

433 Section 8. Subsection (6) of section 482.226, Florida
 434 Statutes, is amended to read:

435 482.226 Wood-destroying organism inspection report; notice
 436 of inspection or treatment; financial responsibility.--

437 (6) Any licensee that performs wood-destroying organism
 438 inspections in accordance with subsection (1) must meet minimum
 439 financial responsibility in the form of errors and omissions
 440 (professional liability) insurance coverage or bond in an amount
 441 no less than \$250,000 ~~\$50,000~~ in the aggregate ~~and \$25,000 per~~
 442 ~~occurrence,~~ or demonstrate that the licensee has equity or net
 443 worth of no less than \$500,000 ~~\$100,000~~ as determined by
 444 generally accepted accounting principles substantiated by a
 445 certified public accountant's review or certified audit. The
 446 licensee must show proof of meeting this requirement at the time
 447 of license application or renewal thereof.

448 Section 9. Subsection (1) of section 493.6102, Florida

CS/HB 1447

2009

449 Statutes, is amended to read:

450 493.6102 Inapplicability of this chapter.--This chapter
451 shall not apply to:

452 (1) Any individual who is an "officer" as defined in s.
453 943.10(14), or is a law enforcement officer of the United States
454 Government, while the ~~such~~ local, state, or federal officer is
455 engaged in her or his official duties or, if approved by the
456 officer's supervisors, when performing off-duty activities as a
457 security officer ~~activities approved by her or his superiors.~~

458 Section 10. Section 493.6105, Florida Statutes, is amended
459 to read:

460 493.6105 Initial application for license.--

461 (1) Each individual, partner, or principal officer in a
462 corporation, shall file with the department a complete
463 application accompanied by an application fee not to exceed \$60,
464 except that the applicant for a Class "D" or Class "G" license
465 shall not be required to submit an application fee. The
466 application fee shall not be refundable.

467 (a) The application submitted by any individual, partner,
468 or corporate officer shall be approved by the department prior
469 to that individual, partner, or corporate officer assuming his
470 or her duties.

471 (b) Individuals who invest in the ownership of a licensed
472 agency, but do not participate in, direct, or control the
473 operations of the agency shall not be required to file an
474 application.

475 (2) Each application shall be signed and verified by the
476 individual under oath as provided in s. 92.525 ~~and shall be~~

477 | ~~notarized.~~

478 | (3) The application shall contain the following
479 | information concerning the individual signing same:

480 | (a) Name and any aliases.

481 | (b) Age and date of birth.

482 | (c) Place of birth.

483 | (d) Social security number or alien registration number,
484 | whichever is applicable.

485 | (e) Present residence address ~~and his or her residence~~
486 | ~~addresses within the 5 years immediately preceding the~~
487 | ~~submission of the application.~~

488 | ~~(f) Occupations held presently and within the 5 years~~
489 | ~~immediately preceding the submission of the application.~~

490 | (f) (g) A statement of all criminal convictions, findings
491 | of guilt, and pleas of guilty or nolo contendere, regardless of
492 | adjudication of guilt.

493 | (g) One passport-type color photograph taken within the 6
494 | months immediately preceding submission of the application.

495 | (h) A statement whether he or she has ever been
496 | adjudicated incompetent under chapter 744.

497 | (i) A statement whether he or she has ever been committed
498 | to a mental institution under chapter 394.

499 | (j) A full set of fingerprints on a card provided by the
500 | department and a fingerprint fee to be established by rule of
501 | the department based upon costs determined by state and federal
502 | agency charges and department processing costs. An applicant who
503 | has, within the immediately preceding 6 months, submitted a
504 | fingerprint card and fee for licensing purposes under this

505 chapter shall not be required to submit another fingerprint card
 506 or fee.

507 (k) A personal inquiry waiver which allows the department
 508 to conduct necessary investigations to satisfy the requirements
 509 of this chapter.

510 (l) Such further facts as may be required by the
 511 department to show that the individual signing the application
 512 is of good moral character and qualified by experience and
 513 training to satisfy the requirements of this chapter.

514 ~~(4) In addition to the application requirements outlined~~
 515 ~~in subsection (3), the applicant for a Class "C," Class "CC,"~~
 516 ~~Class "E," Class "EE," or Class "G" license shall submit two~~
 517 ~~color photographs taken within the 6 months immediately~~
 518 ~~preceding the submission of the application, which meet~~
 519 ~~specifications prescribed by rule of the department. All other~~
 520 ~~applicants shall submit one photograph taken within the 6 months~~
 521 ~~immediately preceding the submission of the application.~~

522 (4)~~(5)~~ In addition to the application requirements
 523 outlined under subsection (3), the applicant for a Class "C,"
 524 Class "E," Class "M," Class "MA," Class "MB," or Class "MR"
 525 license shall include a statement on a form provided by the
 526 department of the experience which he or she believes will
 527 qualify him or her for such license.

528 (5)~~(6)~~ In addition to the requirements outlined in
 529 subsection (3), an applicant for a Class "G" license shall
 530 satisfy minimum training criteria for firearms established by
 531 rule of the department, which training criteria shall include,
 532 but is not limited to, 28 hours of range and classroom training

CS/HB 1447

2009

533 taught and administered by a Class "K" licensee; however, no
 534 more than 8 hours of such training shall consist of range
 535 training. If the applicant can show proof that he or she is an
 536 active law enforcement officer currently certified under the
 537 Criminal Justice Standards and Training Commission or has
 538 completed the training required for that certification within
 539 the last 12 months, or if the applicant submits one of the
 540 certificates specified in paragraph (6) (a) ~~(7) (a)~~, the
 541 department may waive the foregoing firearms training
 542 requirement.

543 (6) (7) In addition to the requirements under subsection
 544 (3), an applicant for a Class "K" license shall:

545 (a) Submit one of the following certificates:

546 1. The Florida Criminal Justice Standards and Training
 547 Commission ~~Firearms~~ Instructor's Certificate and confirmation by
 548 the commission that the applicant is authorized to provide
 549 firearms instruction.

550 2. The National Rifle Association Law Enforcement ~~Police~~
 551 ~~Firearms~~ Instructor's Certificate.

552 ~~3. The National Rifle Association Security Firearms~~
 553 ~~Instructor's Certificate.~~

554 ~~3.4.~~ A firearms instructor's training certificate issued
 555 by any branch of the United States Armed Forces, from a federal
 556 law enforcement academy or agency, state, county, or municipal
 557 ~~police~~ academy in this state recognized as such by the Criminal
 558 Justice Standards and Training Commission ~~or by the Department~~
 559 ~~of Education.~~

560 (b) Pay the fee for and pass an examination administered

561 by the department which shall be based upon, but is not
562 necessarily limited to, a firearms instruction manual provided
563 by the department.

564 (7)~~(8)~~ In addition to the application requirements for
565 individuals, partners, or officers outlined under subsection
566 (3), the application for an agency license shall contain the
567 following information:

568 (a) The proposed name under which the agency intends to
569 operate.

570 (b) The street address, mailing address, and telephone
571 numbers of the principal location at which business is to be
572 conducted in this state.

573 (c) The street address, mailing address, and telephone
574 numbers of all branch offices within this state.

575 (d) The names and titles of all partners or, in the case
576 of a corporation, the names and titles of its principal
577 officers.

578 (8)~~(9)~~ Upon submission of a complete application, a Class
579 "CC," Class "C," Class "D," Class "EE," Class "E," Class "M,"
580 Class "MA," Class "MB," or Class "MR" applicant may commence
581 employment or appropriate duties for a licensed agency or branch
582 office. However, the Class "C" or Class "E" applicant must work
583 under the direction and control of a sponsoring licensee while
584 his or her application is being processed. If the department
585 denies application for licensure, the employment of the
586 applicant must be terminated immediately, unless he or she
587 performs only unregulated duties.

588 Section 11. Paragraph (f) of subsection (1) and paragraph

589 (a) of subsection (2) of section 493.6106, Florida Statutes, are
 590 amended, and paragraph (g) is added to subsection (1) of that
 591 section, to read:

592 493.6106 License requirements; posting.--

593 (1) Each individual licensed by the department must:

594 (f) Be a citizen or permanent legal resident alien of the
 595 United States or have appropriate ~~been granted~~ authorization
 596 issued to seek employment in this country by the United States
 597 Bureau of Citizenship and Immigration Services of the United
 598 States Department of Homeland Security.

599 1. An applicant for a Class "C," Class "CC," Class "D,"
 600 Class "DI," Class "E," Class "EE," Class "M," Class "MA," Class
 601 "MB," Class "MR," or Class "RI" license who is not a United
 602 States citizen must submit proof of current employment
 603 authorization issued by the United States Bureau of Citizenship
 604 and Immigration Services or proof that she or he is deemed a
 605 permanent legal resident alien by the United States Bureau of
 606 Citizenship and Immigration Services.

607 2. An applicant for a Class "G" or Class "K" license who
 608 is not a United States citizen must submit proof that she or he
 609 is deemed a permanent legal resident alien by the United States
 610 Bureau of Citizenship and Immigration Services, together with
 611 additional documentation establishing that she or he has resided
 612 in the state of residence shown on the application for at least
 613 90 consecutive days before the date that the application is
 614 submitted.

615 3. An applicant for an agency or school license who is not
 616 a United States citizen or permanent legal resident alien must

CS/HB 1447

2009

617 submit documentation issued by the United States Bureau of
618 Citizenship and Immigration Services stating that she or he is
619 lawfully in the United States and is authorized to own and
620 operate the type of agency or school for which she or he is
621 applying. An employment authorization card issued by the United
622 States Bureau of Citizenship and Immigration Services is not
623 sufficient documentation.

624 (g) Not be prohibited from purchasing or possessing a
625 firearm by state or federal law if the individual is applying
626 for a Class "G" license or a Class "K" license.

627 (2) Each agency shall have a minimum of one physical
628 location within this state from which the normal business of the
629 agency is conducted, and this location shall be considered the
630 primary office for that agency in this state.

631 (a) If an agency or branch office desires to change the
632 physical location of the business, as it appears on the ~~agency~~
633 license, the department must be notified within 10 days of the
634 change, and, except upon renewal, the fee prescribed in s.
635 493.6107 must be submitted for each license requiring revision.
636 Each license requiring revision must be returned with such
637 notification.

638 Section 12. Subsection (3) of section 493.6107, Florida
639 Statutes, is amended to read:

640 493.6107 Fees.--

641 (3) The fees set forth in this section must be paid by
642 ~~certified check or money order or, at the discretion of the~~
643 ~~department, by agency check~~ at the time the application is
644 approved, except that the applicant for a Class "G" or Class "M"

CS/HB 1447

2009

645 license must pay the license fee at the time the application is
 646 made. If a license is revoked or denied or if the application is
 647 withdrawn, the license fee shall not be refunded.

648 Section 13. Paragraph (a) of subsection (1) and subsection
 649 (3) of section 493.6108, Florida Statutes, are amended to read:

650 493.6108 Investigation of applicants by Department of
 651 Agriculture and Consumer Services.--

652 (1) Except as otherwise provided, prior to the issuance of
 653 a license under this chapter, the department shall make an
 654 investigation of the applicant for a license. The investigation
 655 shall include:

656 (a)1. An examination of fingerprint records and police
 657 records. When a criminal history analysis of any applicant under
 658 this chapter is performed by means of fingerprint card
 659 identification, the time limitations prescribed by s. 120.60(1)
 660 shall be tolled during the time the applicant's fingerprint card
 661 is under review by the Department of Law Enforcement or the
 662 United States Department of Justice, Federal Bureau of
 663 Investigation.

664 2. If a legible set of fingerprints, as determined by the
 665 Department of Law Enforcement or the Federal Bureau of
 666 Investigation, cannot be obtained after two attempts, the
 667 Department of Agriculture and Consumer Services may determine
 668 the applicant's eligibility based upon a criminal history record
 669 check under the applicant's name conducted by the Department of
 670 Law Enforcement if the ~~and the Federal Bureau of Investigation.~~
 671 ~~A set of fingerprints~~ are taken by a law enforcement agency or
 672 the department and the applicant submits a written statement

673 signed by the fingerprint technician or a licensed physician
 674 stating that there is a physical condition that precludes
 675 obtaining a legible set of fingerprints or that the fingerprints
 676 taken are the best that can be obtained ~~is sufficient to meet~~
 677 ~~this requirement.~~

678 (3) The department shall also investigate the mental
 679 history and current mental and emotional fitness of any Class
 680 "G" or Class "K" applicant, and may deny a Class "G" or Class
 681 "K" license to anyone who has a history of mental illness or
 682 drug or alcohol abuse.

683 Section 14. Subsection (4) of section 493.6111, Florida
 684 Statutes, is amended to read:

685 493.6111 License; contents; identification card.--

686 (4) Notwithstanding the existence of a valid Florida
 687 corporate registration, an ~~no~~ agency or school licensee may not
 688 conduct activities regulated under this chapter under any
 689 fictitious name without prior written authorization from the
 690 department to use that name in the conduct of activities
 691 regulated under this chapter. The department may not authorize
 692 the use of a name which is so similar to that of a public
 693 officer or agency, or of that used by another licensee, that the
 694 public may be confused or misled thereby. The authorization for
 695 the use of a fictitious name shall require, as a condition
 696 precedent to the use of such name, the filing of a certificate
 697 of engaging in business under a fictitious name under s. 865.09.
 698 A ~~No~~ licensee may not ~~shall be permitted to~~ conduct business
 699 under more than one fictitious name except as separately
 700 licensed nor shall the license be valid to protect any licensee

701 who is engaged in ~~the~~ business under any name other than that
 702 specified in the license. An agency desiring to change its
 703 licensed name shall notify the department and, except upon
 704 renewal, pay a fee not to exceed \$30 for each license requiring
 705 revision including those of all licensed employees except Class
 706 "D" or Class "G" licensees. Upon the return of such licenses to
 707 the department, revised licenses shall be provided.

708 Section 15. Subsection (2) and paragraph (a) of subsection
 709 (3) of section 493.6113, Florida Statutes, are amended to read:

710 493.6113 Renewal application for licensure.--

711 (2) At least ~~No less than~~ 90 days before ~~prior to~~ the
 712 expiration date of the license, the department shall mail a
 713 written notice to the last known mailing ~~residence~~ address of
 714 the licensee ~~for individual licensees and to the last known~~
 715 ~~agency address for agencies.~~

716 (3) Each licensee shall be responsible for renewing his or
 717 her license on or before its expiration by filing with the
 718 department an application for renewal accompanied by payment of
 719 the prescribed license fee.

720 (a) Each Class "B" ~~Class "A," Class "B," or Class "R"~~
 721 licensee shall additionally submit on a form prescribed by the
 722 department a certification of insurance which evidences that the
 723 licensee maintains coverage as required under s. 493.6110.

724 Section 16. Subsection (8), paragraph (d) of subsection
 725 (12), and subsection (16) of section 493.6115, Florida Statutes,
 726 are amended to read:

727 493.6115 Weapons and firearms.--

728 (8) A Class "G" applicant must satisfy the minimum

729 training criteria as set forth in s. 493.6105(5)~~(6)~~ and as
730 established by rule of the department.

731 (12) The department may issue a temporary Class "G"
732 license, on a case-by-case basis, if:

733 (d) The applicant has received approval from the
734 department subsequent to its conduct of a criminal history
735 record check as authorized in s. 493.6108(1)(a)1. ~~493.6121(6).~~

736 (16) If the criminal history record check program
737 referenced in s. 493.6108(1)(a)1. ~~493.6121(6)~~ is inoperable, the
738 department may issue a temporary "G" license on a case-by-case
739 basis, provided that the applicant has met all statutory
740 requirements for the issuance of a temporary "G" license as
741 specified in subsection (12), excepting the criminal history
742 record check stipulated there; provided, that the department
743 requires that the licensed employer of the applicant conduct a
744 criminal history record check of the applicant pursuant to
745 standards set forth in rule by the department, and provide to
746 the department an affidavit containing such information and
747 statements as required by the department, including a statement
748 that the criminal history record check did not indicate the
749 existence of any criminal history that would prohibit licensure.
750 Failure to properly conduct such a check, or knowingly providing
751 incorrect or misleading information or statements in the
752 affidavit shall constitute grounds for disciplinary action
753 against the licensed agency, including revocation of license.

754 Section 17. Paragraph (u) of subsection (1) of section
755 493.6118, Florida Statutes, is redesignated as paragraph (v),
756 and a new paragraph (u) is added to that subsection to read:

757 493.6118 Grounds for disciplinary action.--

758 (1) The following constitute grounds for which
 759 disciplinary action specified in subsection (2) may be taken by
 760 the department against any licensee, agency, or applicant
 761 regulated by this chapter, or any unlicensed person engaged in
 762 activities regulated under this chapter.

763 (u) For a Class "G" or a Class "K" applicant or licensee,
 764 being prohibited from purchasing or possessing a firearm by
 765 state or federal law.

766 Section 18. Subsections (7) and (8) of section 493.6121,
 767 Florida Statutes, are renumbered as subsections (6) and (7),
 768 respectively, and present subsection (6) of that section is
 769 amended, to read:

770 493.6121 Enforcement; investigation.--

771 ~~(6) The department shall be provided access to the program~~
 772 ~~that is operated by the Department of Law Enforcement, pursuant~~
 773 ~~to s. 790.065, for providing criminal history record information~~
 774 ~~to licensed gun dealers, manufacturers, and exporters. The~~
 775 ~~department may make inquiries, and shall receive responses in~~
 776 ~~the same fashion as provided under s. 790.065. The department~~
 777 ~~shall be responsible for payment to the Department of Law~~
 778 ~~Enforcement of the same fees as charged to others afforded~~
 779 ~~access to the program.~~

780 Section 19. Subsection (3) of section 493.6202, Florida
 781 Statutes, is amended to read:

782 493.6202 Fees.--

783 (3) The fees set forth in this section must be paid by
 784 ~~certified check or money order or, at the discretion of the~~

785 ~~department, by agency check~~ at the time the application is
 786 approved, except that the applicant for a Class "G," Class "C,"
 787 Class "CC," Class "M," or Class "MA" license must pay the
 788 license fee at the time the application is made. If a license is
 789 revoked or denied or if the application is withdrawn, the
 790 license fee shall not be refunded.

791 Section 20. Subsections (2), (4), and (6) of section
 792 493.6203, Florida Statutes, are amended to read:

793 493.6203 License requirements.--In addition to the license
 794 requirements set forth elsewhere in this chapter, each
 795 individual or agency shall comply with the following additional
 796 requirements:

797 (2) An applicant for a Class "MA" license shall have 2
 798 years of lawfully gained, verifiable, full-time experience, or
 799 training in:

800 (a) Private investigative work or related fields of work
 801 that provided equivalent experience or training;

802 (b) Work as a Class "CC" licensed intern;

803 (c) Any combination of paragraphs (a) and (b);

804 (d) Experience described in paragraph (a) for 1 year and
 805 experience described in paragraph (e) for 1 year;

806 (e) No more than 1 year using:

807 1. College coursework related to criminal justice,
 808 criminology, or law enforcement administration; or

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

811 or

812 (f) Experience described in paragraph (a) for 1 year and

813 work in a managerial or supervisory capacity for 1 year.

814

815 However, experience in performing bodyguard services is not
 816 creditable toward the requirements of this subsection.

817 (4) An applicant for a Class "C" license shall have 2
 818 years of lawfully gained, verifiable, full-time experience, or
 819 training in one, or a combination of more than one, of the
 820 following:

821 (a) Private investigative work or related fields of work
 822 that provided equivalent experience or training.

823 (b) College coursework related to criminal justice,
 824 criminology, or law enforcement administration, or successful
 825 completion of any law enforcement-related training received from
 826 any federal, state, county, or municipal agency, except that no
 827 more than 1 year may be used from this category.

828 (c) Work as a Class "CC" licensed intern.

829

830 However, experience in performing bodyguard services is not
 831 creditable toward the requirements of this subsection.

832 (6) (a) A Class "CC" licensee shall serve an internship
 833 under the direction and control of a designated sponsor, who is
 834 a Class "C," Class "MA," or Class "M" licensee.

835 (b) Effective July 1, 2009 ~~September 1, 2008~~, before
 836 submission of an application to the department, the an applicant
 837 for a Class "CC" license must have completed a minimum of 40 ~~at~~
 838 ~~least 24~~ hours of professional training ~~a 40-hour course~~
 839 pertaining to general investigative techniques and this chapter,
 840 which course is offered by a state university or by a school,

841 community college, college, or university under the purview of
842 the Department of Education, and the applicant must pass an
843 examination. The training must be provided in two parts, one 24-
844 hour course and one 16-hour course. The certificate evidencing
845 satisfactory completion of the 40 ~~at least 24~~ hours of
846 professional training a 40-hour course must be submitted with
847 the application for a Class "CC" license. ~~The remaining 16 hours~~
848 ~~must be completed and an examination passed within 180 days. If~~
849 ~~documentation of completion of the required training is not~~
850 ~~submitted within the specified timeframe, the individual's~~
851 ~~license is automatically suspended or his or her authority to~~
852 ~~work as a Class "CC" pursuant to s. 493.6105(9) is rescinded~~
853 ~~until such time as proof of certificate of completion is~~
854 ~~provided to the department.~~ The training ~~course~~ specified in
855 this paragraph may be provided by face-to-face presentation,
856 online technology, or a home study course in accordance with
857 rules and procedures of the Department of Education. The
858 administrator of the examination must verify the identity of
859 each applicant taking the examination.

860 1. Upon an applicant's successful completion of each part
861 of the approved training ~~course~~ and passage of any required
862 examination, the school, community college, college, or
863 university shall issue a certificate of completion to the
864 applicant. The certificates must be on a form established by
865 rule of the department.

866 2. The department shall establish by rule the general
867 content of the professional training ~~course~~ and the examination
868 criteria.

CS/HB 1447

2009

869 3. If the license of an applicant for relicensure is ~~has~~
870 ~~been~~ invalid for more than 1 year, the applicant must complete
871 the required training and pass any required examination.

872 (c) An individual who submits an application for a Class
873 "CC" license on or after September 1, 2008, through June 30,
874 2009, who has not completed the 16-hour course must submit proof
875 of successful completion of the course within 180 days after the
876 date the application is submitted. If documentation of
877 completion of the required training is not submitted by that
878 date, the individual's license is automatically suspended until
879 proof of the required training is submitted to the department.
880 An individual licensed on or before August 31, 2008, is not
881 required to complete additional training hours in order to renew
882 an active license beyond the required total amount of training,
883 and within the timeframe, in effect at the time he or she was
884 licensed.

885 Section 21. Subsection (3) of section 493.6302, Florida
886 Statutes, is amended to read:

887 493.6302 Fees.--

888 (3) The fees set forth in this section must be paid by
889 ~~certified check or money order or, at the discretion of the~~
890 ~~department, by agency check~~ at the time the application is
891 approved, except that the applicant for a Class "D," Class "G,"
892 Class "M," or Class "MB" license must pay the license fee at the
893 time the application is made. If a license is revoked or denied
894 or if the application is withdrawn, the license fee shall not be
895 refunded.

896 Section 22. Subsection (4) of section 493.6303, Florida

897 Statutes, is amended to read:

898 493.6303 License requirements.--In addition to the license
 899 requirements set forth elsewhere in this chapter, each
 900 individual or agency shall comply with the following additional
 901 requirements:

902 (4) (a) Effective July 1, 2009, an applicant for a Class
 903 "D" license must submit proof of successful completion of
 904 ~~complete~~ a minimum of 40 hours of professional training at a
 905 school or training facility licensed by the department. The
 906 training must be provided in two parts, one 24-hour course and
 907 one 16-hour course. The department shall by rule establish the
 908 general content and number of hours of each subject area to be
 909 taught.

910 (b) An individual who submits an application for a Class
 911 "D" license on or after January 1, 2007, through June 30, 2009,
 912 who has not completed the 16-hour course must submit proof of
 913 successful completion of the course within 180 days after the
 914 date the application is submitted. If documentation of
 915 completion of the required training is not submitted by that
 916 date, the individual's license is automatically suspended until
 917 proof of the required training is submitted to the department.
 918 This section does not require a person licensed before January
 919 1, 2007, to complete additional training hours in order to renew
 920 an active license beyond the required total amount of training
 921 within the timeframe prescribed by law at the time he or she was
 922 licensed. An applicant may fulfill the training requirement
 923 ~~prescribed in paragraph (a) by submitting proof of:~~

924 ~~1. Successful completion of the total number of required~~

925 ~~hours of training before initial application for a Class "D"~~
 926 ~~license; or~~

927 ~~2. Successful completion of 24 hours of training before~~
 928 ~~initial application for a Class "D" license and successful~~
 929 ~~completion of the remaining 16 hours of training within 180 days~~
 930 ~~after the date that the application is submitted. If~~
 931 ~~documentation of completion of the required training is not~~
 932 ~~submitted within the specified timeframe, the individual's~~
 933 ~~license is automatically suspended until such time as proof of~~
 934 ~~the required training is provided to the department.~~

935 ~~(c) An individual~~ However, any person whose license is
 936 suspended or has been revoked, ~~suspended pursuant to paragraph~~
 937 (b) subparagraph 2., or is expired for at least 1 year, or
 938 ~~longer~~ is considered, upon reapplication for a license, an
 939 initial applicant and must submit proof of successful completion
 940 of 40 hours of professional training at a school or training
 941 facility licensed by the department as provided ~~prescribed~~ in
 942 paragraph (a) before a license is ~~will be~~ issued. ~~Any person~~
 943 ~~whose license was issued before January 1, 2007, and whose~~
 944 ~~license has been expired for less than 1 year must, upon~~
 945 ~~reapplication for a license, submit documentation of completion~~
 946 ~~of the total number of hours of training prescribed by law at~~
 947 ~~the time her or his initial license was issued before another~~
 948 ~~license will be issued. This subsection does not require an~~
 949 ~~individual licensed before January 1, 2007, to complete~~
 950 ~~additional training hours in order to renew an active license,~~
 951 ~~beyond the required total amount of training within the~~
 952 ~~timeframe prescribed by law at the time she or he was licensed.~~

953 Section 23. Subsection (2) of section 493.6304, Florida
 954 Statutes, is amended to read:

955 493.6304 Security officer school or training facility.--

956 (2) The application shall be signed and verified by the
 957 applicant under oath as provided in s. 92.525 ~~notarized~~ and
 958 shall contain, at a minimum, the following information:

959 (a) The name and address of the school or training
 960 facility and, if the applicant is an individual, her or his
 961 name, address, and social security or alien registration number.

962 (b) The street address of the place at which the training
 963 is to be conducted.

964 (c) A copy of the training curriculum and final
 965 examination to be administered.

966 Section 24. Subsections (7) and (8) of section 493.6401,
 967 Florida Statutes, are amended to read:

968 493.6401 Classes of licenses.--

969 (7) Any person who operates a recovery agent ~~repossessor~~
 970 school or training facility or who conducts an Internet-based
 971 training course or a correspondence training course must have a
 972 Class "RS" license.

973 (8) Any individual who teaches or instructs at a Class
 974 "RS" recovery agent ~~repossessor~~ school or training facility
 975 shall have a Class "RI" license.

976 Section 25. Paragraphs (f) and (g) of subsection (1) and
 977 subsection (3) of section 493.6402, Florida Statutes, are
 978 amended to read:

979 493.6402 Fees.--

980 (1) The department shall establish by rule biennial

981 license fees which shall not exceed the following:

982 (f) Class "RS" license--recovery agent ~~repossessor~~ school
 983 or training facility: \$60.

984 (g) Class "RI" license--recovery agent ~~repossessor~~ school
 985 or training facility instructor: \$60.

986 (3) The fees set forth in this section must be paid by
 987 ~~certified~~ check or money order, ~~or, at the discretion of the~~
 988 ~~department, by agency check~~ at the time the application is
 989 approved, except that the applicant for a Class "E," Class "EE,"
 990 or Class "MR" license must pay the license fee at the time the
 991 application is made. If a license is revoked or denied, or if an
 992 application is withdrawn, the license fee shall not be refunded.

993 Section 26. Subsections (1) and (2) of section 493.6406,
 994 Florida Statutes, are amended to read:

995 493.6406 Recovery agent ~~Repossession services~~ school or
 996 training facility.--

997 (1) Any school, training facility, or instructor who
 998 offers the training outlined in s. 493.6403(2) for Class "E" or
 999 Class "EE" applicants shall, before licensure of such school,
 1000 training facility, or instructor, file with the department an
 1001 application accompanied by an application fee in an amount to be
 1002 determined by rule, not to exceed \$60. The fee shall not be
 1003 refundable. This training may be offered as face-to-face
 1004 training, Internet-based training, or correspondence training.

1005 (2) The application shall be signed and verified by the
 1006 applicant under oath as provided in s. 92.525 ~~notarized~~ and
 1007 shall contain, at a minimum, the following information:

1008 (a) The name and address of the school or training

CS/HB 1447

2009

1009 facility and, if the applicant is an individual, his or her
 1010 name, address, and social security or alien registration number.

1011 (b) The street address of the place at which the training
 1012 is to be conducted or the street address of the Class "RS"
 1013 school offering Internet-based or correspondence training.

1014 (c) A copy of the training curriculum and final
 1015 examination to be administered.

1016 Section 27. Paragraph (n) of subsection (1) of section
 1017 500.03, Florida Statutes, is amended to read:

1018 500.03 Definitions; construction; applicability.--

1019 (1) For the purpose of this chapter, the term:

1020 (n) "Food establishment" means any factory, food outlet,
 1021 or any other facility manufacturing, processing, packing,
 1022 holding, or preparing food, or selling food at wholesale or
 1023 retail. The term does not include any business or activity that
 1024 is regulated under chapter 509 or chapter 601. The term includes
 1025 tomato packinghouses and repackers but does not include any
 1026 other establishments that pack fruits and vegetables in their
 1027 raw or natural states, including those fruits or vegetables that
 1028 are washed, colored, or otherwise treated in their unpeeled,
 1029 natural form before they are marketed.

1030 Section 28. Section 500.70, Florida Statutes, is created
 1031 to read:

1032 500.70 Tomato food safety standards; inspections;
 1033 penalties; tomato good agricultural practices; tomato best
 1034 management practices.--

1035 (1) As used in this section, the term:

1036 (a) "Field packing" means the packing of tomatoes on a

1037 tomato farm or in a tomato greenhouse into containers for sale
 1038 for human consumption without transporting the tomatoes to a
 1039 packinghouse.

1040 (b) "Packing" or "repacking" means the packing of tomatoes
 1041 into containers for sale for human consumption. The term
 1042 includes the sorting or separating of tomatoes into grades and
 1043 sizes. The term also includes field packing.

1044 (c) "Producing" means the planting, growing, or
 1045 cultivating of tomatoes on a tomato farm or in a tomato
 1046 greenhouse for sale for human consumption.

1047 (2) The department may adopt rules establishing food
 1048 safety standards to safeguard the public health and promote the
 1049 public welfare by protecting the consuming public from injury
 1050 caused by the adulteration or the microbiological, chemical, or
 1051 radiological contamination of tomatoes. The rules must be based
 1052 on federal requirements, available scientific research,
 1053 generally accepted industry practices, and recommendations of
 1054 food safety professionals. The rules shall apply to the
 1055 producing, harvesting, packing, and repacking of tomatoes for
 1056 sale for human consumption by a tomato farm, tomato greenhouse,
 1057 or tomato packinghouse or repacker in this state. The rules may
 1058 include, but are not limited to, standards for:

1059 (a) Registration with the department of a person who
 1060 produces, harvests, packs, or repacks tomatoes in this state who
 1061 does not hold a food permit issued under s. 500.12.

1062 (b) Proximity of domestic animals and livestock to the
 1063 production areas for tomatoes.

1064 (c) Food safety related use of water for irrigation during

1065 production and washing of tomatoes after harvest.
 1066 (d) Use of fertilizers.
 1067 (e) Cleaning and sanitation of containers, materials,
 1068 equipment, vehicles, and facilities, including storage and
 1069 ripening areas.
 1070 (f) Health, hygiene, and sanitation of employees who
 1071 handle tomatoes.
 1072 (g) Training and continuing education of a person who
 1073 produces, harvests, packs, or repacks tomatoes in this state,
 1074 and the person's employees who handle tomatoes.
 1075 (h) Labeling and recordkeeping, including standards for
 1076 identifying and tracing tomatoes for sale for human consumption.
 1077 (3) (a) The department may inspect tomato farms, tomato
 1078 greenhouses, tomato packinghouses, repacking locations, or any
 1079 vehicle being used to transport or hold tomatoes to ensure
 1080 compliance with the applicable provisions of this chapter, and
 1081 the rules adopted under this chapter.
 1082 (b) The department may impose an administrative fine not
 1083 to exceed \$5,000 per violation, or issue a written notice or
 1084 warning under s. 500.179, against a person who violates any
 1085 applicable provision of this section, or any rule adopted under
 1086 this section.
 1087 (4) (a) The department may adopt rules establishing tomato
 1088 good agricultural practices and tomato best management practices
 1089 for the state's tomato industry based on applicable federal
 1090 requirements, available scientific research, generally accepted
 1091 industry practices, and recommendations of food safety
 1092 professionals.

1093 (b) A person who documents compliance with the
 1094 department's rules, tomato good agricultural practices, and
 1095 tomato best management practices is presumed to introduce
 1096 tomatoes into the stream of commerce that are safe for human
 1097 consumption, unless the department identifies noncompliance
 1098 through inspections.

1099 (5) The department may adopt rules pursuant to ss.
 1100 120.536(1) and 120.54 to administer this section.

1101 Section 29. Paragraph (a) of subsection (2) of section
 1102 501.605, Florida Statutes, is amended to read:

1103 501.605 Licensure of commercial telephone sellers.--

1104 (2) An applicant for a license as a commercial telephone
 1105 seller must submit to the department, in such form as it
 1106 prescribes, a written application for the license. The
 1107 application must set forth the following information:

1108 (a) The true name, date of birth, driver's license number,
 1109 ~~social security number,~~ and home address of the applicant,
 1110 including each name under which he or she intends to do
 1111 business.

1112
 1113 The application shall be accompanied by a copy of any: Script,
 1114 outline, or presentation the applicant will require or suggest a
 1115 salesperson to use when soliciting, or, if no such document is
 1116 used, a statement to that effect; sales information or
 1117 literature to be provided by the applicant to a salesperson; and
 1118 sales information or literature to be provided by the applicant
 1119 to a purchaser in connection with any solicitation.

1120 Section 30. Paragraph (a) of subsection (1) of section

CS/HB 1447

2009

1121 501.607, Florida Statutes, is amended to read:

1122 501.607 Licensure of salespersons.--

1123 (1) An applicant for a license as a salesperson must
 1124 submit to the department, in such form as it prescribes, a
 1125 written application for a license. The application must set
 1126 forth the following information:

1127 (a) The true name, date of birth, driver's license number,
 1128 ~~social security number,~~ and home address of the applicant.

1129 Section 31. Subsection (2) of section 501.913, Florida
 1130 Statutes, is amended to read:

1131 501.913 Registration.--

1132 (2) The completed application shall be accompanied by:

1133 (a) Specimens or facsimiles of the label for each brand of
 1134 antifreeze;

1135 (b) An application fee of \$200 for each brand; and

1136 (c) A properly labeled sample of at least 1 gallon, but
 1137 not more than 2 gallons, of each brand of antifreeze.

1138 Section 32. Subsection (2) of section 525.01, Florida
 1139 Statutes, is amended to read:

1140 525.01 Gasoline and oil to be inspected.--

1141 (2) All petroleum fuels are ~~shall be~~ subject to inspection
 1142 and analysis by the department. Before selling or offering for
 1143 sale in this state any petroleum fuel, all manufacturers,
 1144 terminal suppliers, wholesalers, and importers as defined in s.
 1145 206.01 ~~jobbers~~ shall file with the department:

1146 (a) An affidavit that they desire to do business in this
 1147 state, and the name and address of the manufacturer of the
 1148 petroleum fuel.

CS/HB 1447

2009

1149 (b) An affidavit stating that the petroleum fuel is in
 1150 conformity with the standards prescribed by department rule.

1151 Section 33. Subsections (1) and (3) of section 525.09,
 1152 Florida Statutes, are amended to read:

1153 525.09 Inspection fee.--

1154 (1) For the purpose of defraying the expenses incident to
 1155 inspecting, testing, and analyzing petroleum fuels in this
 1156 state, there shall be paid to the department a charge of one-
 1157 eighth cent per gallon on all gasoline, alternative fuel
 1158 containing alcohol as defined in s. 525.01(1)(c)1. or 2.,
 1159 kerosene (except when used as aviation turbine fuel), and #1
 1160 fuel oil for sale or use in this state. This inspection fee
 1161 shall be imposed in the same manner as the motor fuel tax
 1162 pursuant to s. 206.41. Payment shall be made on or before the
 1163 25th day of each month.

1164 (3) All remittances to the department for the inspection
 1165 tax herein provided shall be accompanied by a detailed report
 1166 under oath showing the number of gallons of gasoline,
 1167 alternative fuel containing alcohol as defined in s.
 1168 525.01(1)(c)1. and 2., kerosene, or fuel oil sold and delivered
 1169 in each county.

1170 Section 34. Section 526.50, Florida Statutes, is amended
 1171 to read:

1172 526.50 Definition of terms.--As used in this part:

1173 (1) "Brake fluid" means the fluid intended for use as the
 1174 liquid medium through which force is transmitted in the
 1175 hydraulic brake system of a vehicle operated upon the highways.

1176 (2) "Brand" means the product name appearing on the label

CS/HB 1447

2009

1177 | of a container of brake fluid.

1178 | (3)~~(5)~~ "Container" means any receptacle in which brake
 1179 | fluid is immediately contained when sold, but does not mean a
 1180 | carton or wrapping in which a number of such receptacles are
 1181 | shipped or stored or a tank car or truck.

1182 | (4)~~(2)~~ "Department" means the Department of Agriculture
 1183 | and Consumer Services.

1184 | (5) "Formula" means the name of the chemical mixture or
 1185 | composition of the brake fluid product.

1186 | (6)~~(4)~~ "Labeling" includes all written, printed or graphic
 1187 | representations, in any form whatsoever, imprinted upon or
 1188 | affixed to any container of brake fluid.

1189 | (7)~~(6)~~ "Permit year" means a period of 12 months
 1190 | commencing July 1 and ending on the next succeeding June 30.

1191 | (8)~~(7)~~ "Registrant" means any manufacturer, packer,
 1192 | distributor, seller, or other person who has registered a brake
 1193 | fluid with the department.

1194 | (9)~~(3)~~ "Sell" includes give, distribute, barter, exchange,
 1195 | trade, keep for sale, offer for sale or expose for sale, in any
 1196 | of their variant forms.

1197 | Section 35. Section 526.51, Florida Statutes, is amended
 1198 | to read:

1199 | 526.51 Registration; ~~renewal and fees~~; departmental
 1200 | expenses; cancellation or refusal to issue or renew.--

1201 | (1) (a) Application for registration of each brand of brake
 1202 | fluid shall be made on forms to be supplied by the department.
 1203 | The applicant shall give his or her name and address and the
 1204 | brand name of the brake fluid, state that he or she owns the

1205 brand name and has complete control over the product sold
 1206 thereunder in Florida, and provide the name and address of the
 1207 resident agent in Florida. If the applicant does not own the
 1208 brand name but wishes to register the product with the
 1209 department, a notarized affidavit that gives the applicant full
 1210 authorization to register the brand name and that is signed by
 1211 the owner of the brand name must accompany the application for
 1212 registration. The affidavit must include all affected brand
 1213 names, the owner's company or corporate name and address, the
 1214 applicant's company or corporate name and address, and a
 1215 statement from the owner authorizing the applicant to register
 1216 the product with the department. The owner of the brand name
 1217 shall maintain complete control over each product sold under
 1218 that brand name in this state. All first-time brand-formula
 1219 combination ~~new-product~~ applications must be accompanied by a
 1220 certified report from an independent testing laboratory, setting
 1221 forth the analysis of the brake fluid which shall show its
 1222 quality to be not less than the specifications established by
 1223 the department for brake fluids. A sample of not less than 24
 1224 fluid ounces of brake fluid shall be submitted, in a container
 1225 or containers, with labels representing exactly how the
 1226 containers of brake fluid will be labeled when sold, and the
 1227 sample and container shall be analyzed and inspected by the
 1228 Division of Standards in order that compliance with the
 1229 department's specifications and labeling requirements may be
 1230 verified. Upon approval of the application, the department shall
 1231 register the brand name of the brake fluid and issue to the
 1232 applicant a permit authorizing the registrant to sell the brake

1233 fluid in this state during the permit year specified in the
 1234 permit.

1235 (b) Each applicant shall pay a fee of \$100 with each
 1236 application. An applicant seeking reregistration of a previously
 1237 registered brand-formula combination must submit a completed
 1238 application and all materials required under this subsection to
 1239 the department before the first day of the permit year. A brand-
 1240 formula combination for which a completed application and all
 1241 materials required under this subsection are not received before
 1242 the first day of the permit year ceases to be registered with
 1243 the department until a completed application and all materials
 1244 required under this subsection are received and approved. Any
 1245 fee, application, or materials received after the first day of
 1246 the permit year, if the brand-formula combination was previously
 1247 registered with the department, ~~A permit may be renewed by~~
 1248 ~~application to the department, accompanied by a renewal fee of~~
 1249 ~~\$50 on or before the last day of the permit year immediately~~
 1250 ~~preceding the permit year for which application is made for~~
 1251 ~~renewal of registration. To any fee not paid when due, there~~
 1252 shall accrue a penalty of \$25, which shall be added to the
 1253 ~~renewal fee. Renewals will be accepted only on brake fluids that~~
 1254 ~~have no change in formula, composition, or brand name. Any~~
 1255 change in formula, composition, or brand name of any brake fluid
 1256 constitutes a new product that must be registered in accordance
 1257 with this part.

1258 (2) All fees collected under the provisions of this
 1259 section shall be credited to the General Inspection Trust Fund
 1260 of the department and all expenses incurred in the enforcement

CS/HB 1447

2009

1261 of this part shall be paid from said fund.

1262 (3) The department may cancel or refuse to issue ~~or~~
 1263 ~~refuse to renew~~ any registration and permit after due notice and
 1264 opportunity to be heard if it finds that the brake fluid is
 1265 adulterated or misbranded or that the registrant has failed to
 1266 comply with the provisions of this part or the rules and
 1267 regulations promulgated thereunder.

1268 Section 36. Paragraph (a) of subsection (3) of section
 1269 526.52, Florida Statutes, is amended to read:

1270 526.52 Specifications; adulteration and misbranding.--

1271 (3) Brake fluid is deemed to be misbranded:

1272 (a) If its container does not bear on its side or top a
 1273 label on which is printed the name and place of business of the
 1274 registrant of the product, the words "brake fluid," and a
 1275 statement that the product therein equals or exceeds the minimum
 1276 specification of the Society of Automotive Engineers for heavy-
 1277 duty-type brake fluid or equals or exceeds Federal Motor Vehicle
 1278 Safety Standard No. 116 adopted by the United States Department
 1279 of Transportation, ~~heavy-duty-type~~. By regulation the department
 1280 may require that the duty-type classification appear on the
 1281 label.

1282 Section 37. Subsection (2) of section 526.53, Florida
 1283 Statutes, is amended to read:

1284 526.53 Enforcement; inspection and analysis, stop-sale and
 1285 disposition, regulations.--

1286 (2) (a) When any brake fluid is sold in violation of any of
 1287 the provisions of this part, all such affected brake fluid of
 1288 the same brand name ~~on the same premises on which the violation~~

1289 ~~occurred~~ shall be placed under a stop-sale order by the
 1290 department by serving the owner of the brand name, distributor,
 1291 or other entity responsible for selling or distributing the
 1292 product in the state with the stop-sale order. The department
 1293 shall withdraw its stop-sale order upon the removal of the
 1294 violation or upon voluntary destruction of the product, or other
 1295 disposal approved by the department, under the supervision of
 1296 the department.

1297 (b) In addition to being subject to the stop-sale
 1298 procedures above, unregistered brake fluid shall be held by the
 1299 department or its representative, at a place to be designated in
 1300 the stop-sale order, until properly registered and released in
 1301 writing by the department or its representative. If application
 1302 is ~~has~~ not ~~been~~ made for registration of the ~~such~~ product within
 1303 30 days after issue of the stop-sale order, such product shall
 1304 be disposed of by the department, or, with the department's
 1305 consent, by the business, to any tax-supported institution or
 1306 agency of the state if the brake fluid meets legal
 1307 specifications or by other disposal authorized by rule of the
 1308 department if it fails to meet legal specifications.

1309 Section 38. Subsections (2) and (5) of section 527.02,
 1310 Florida Statutes, are amended to read:

1311 527.02 License; penalty; fees.--

1312 (2) Each business location of a person having multiple
 1313 locations shall be separately licensed and must meet the
 1314 requirements of this section. Such license shall be granted to
 1315 any applicant determined by the department to be competent,
 1316 qualified, and trustworthy who files with the department a

CS/HB 1447

2009

1317 surety bond, insurance affidavit, or other proof of insurance,
 1318 as hereinafter specified, and pays for such license the
 1319 following original application fee for new licenses and annual
 1320 renewal fees for existing licenses:
 1321

License Category	Original Application Fee	Renewal Fee
Category I liquefied petroleum gas dealer	<u>\$600</u> \$525	<u>\$500</u> \$425
Category II liquefied petroleum gas dispenser	525	<u>425</u> 375
Category III liquefied petroleum gas cylinder exchange unit operator	<u>125</u> 100	<u>75</u> 65
Category IV liquefied petroleum gas dispenser and recreational vehicle servicer	525	<u>425</u> 400
Category V liquefied petroleum petroleum gases dealer for industrial uses only	<u>350</u> 300	<u>275</u> 200

CS/HB 1447

2009

1328	LP gas installer	<u>400</u> 300	<u>300</u> 200
1329	Specialty installer	300	<u>250</u> 200
1330	Dealer in appliances and equipment for use of liquefied petroleum gas	50	45
1331	Manufacturer of liquefied petroleum gas appliances and equipment	525	<u>425</u> 375
1332	Requalifier of cylinders	525	<u>425</u> 375
1333	Fabricator, repairer, and tester of vehicles and cargo tanks	525	<u>425</u> 375

1334 (5) The license fee for a pipeline system operator shall
 1335 be \$350 ~~\$100 per system owned or operated by the person, not to~~
 1336 ~~exceed \$400 per license year~~. Such license fee applies only to a
 1337 pipeline system operator who owns or operates a liquefied
 1338 petroleum gas pipeline system that is used to transmit liquefied
 1339 petroleum gas from a common source to the ultimate customer and
 1340 that serves 10 or more customers. The license shall be renewed

1341 each year at a fee of \$275 per year.

1342 Section 39. Subsections (1) and (3) and paragraphs (a) and
 1343 (c) of subsection (5) of section 527.0201, Florida Statutes, are
 1344 amended to read:

1345 527.0201 Qualifiers; master qualifiers; examinations.--

1346 (1) In addition to the requirements of s. 527.02, any
 1347 person applying for a license to engage in the activities of a
 1348 pipeline system operator, category I liquefied petroleum gas
 1349 dealer, category II liquefied petroleum gas dispenser, category
 1350 IV liquefied petroleum gas dispenser and recreational vehicle
 1351 servicer, category V liquefied petroleum gases dealer for
 1352 industrial uses only, LP gas installer, specialty installer,
 1353 requalifier ~~requalification~~ of cylinders, or fabricator,
 1354 repairer, and tester of vehicles and cargo tanks must prove
 1355 competency by passing a written examination administered by the
 1356 department or its agent with a grade of at least 75 percent in
 1357 each area tested ~~or above~~. Each applicant for examination shall
 1358 submit a \$30 ~~\$20~~ nonrefundable fee. The department shall by rule
 1359 specify the general areas of competency to be covered by each
 1360 examination and the relative weight to be assigned in grading
 1361 each area tested.

1362 (3) Qualifier cards issued to category I liquefied
 1363 petroleum gas dealers and liquefied petroleum gas installers
 1364 shall expire 3 years after the date of issuance. All category I
 1365 liquefied petroleum gas dealer qualifiers and liquefied
 1366 petroleum gas installer qualifiers holding a valid qualifier
 1367 card upon the effective date of this act shall retain their
 1368 qualifier status until July 1, 2003, and may sit for the master

CS/HB 1447

2009

1369 | qualifier examination at any time during that time period. All
1370 | such category I liquefied petroleum gas dealer qualifiers and
1371 | liquefied petroleum gas installer qualifiers may renew their
1372 | qualification on or before July 1, 2003, upon application to the
1373 | department, payment of a \$20 renewal fee, and documentation of
1374 | the completion of a minimum of 16 ~~12~~ hours of approved
1375 | continuing education courses, as defined by department rule,
1376 | during the previous 3-year period. Applications for renewal must
1377 | be made 30 calendar days prior to expiration. Persons failing to
1378 | renew prior to the expiration date must reapply and take a
1379 | qualifier competency examination in order to reestablish
1380 | category I liquefied petroleum gas dealer qualifier and
1381 | liquefied petroleum gas installer qualifier status. If a
1382 | category I liquefied petroleum gas qualifier or liquefied
1383 | petroleum gas installer qualifier becomes a master qualifier at
1384 | any time during the effective date of the qualifier card, the
1385 | card shall remain in effect until expiration of the master
1386 | qualifier certification.

1387 | (5) In addition to all other licensing requirements, each
1388 | category I liquefied petroleum gas dealer and liquefied
1389 | petroleum gas installer must, at the time of application for
1390 | licensure, identify to the department one master qualifier who
1391 | is a full-time employee at the licensed location. This person
1392 | shall be a manager, owner, or otherwise primarily responsible
1393 | for overseeing the operations of the licensed location and must
1394 | provide documentation to the department as provided by rule. The
1395 | master qualifier requirement shall be in addition to the
1396 | requirements of subsection (1).

CS/HB 1447

2009

1397 (a) In order to apply for certification as a master
1398 qualifier, each applicant must be a category I liquefied
1399 petroleum gas dealer qualifier or liquefied petroleum gas
1400 installer qualifier, must be employed by a licensed category I
1401 liquefied petroleum gas dealer, liquefied petroleum gas
1402 installer, or applicant for such license, must provide
1403 documentation of a minimum of 1 year's work experience in the
1404 gas industry, and must pass a master qualifier competency
1405 examination. Master qualifier examinations shall be based on
1406 Florida's laws, rules, and adopted codes governing liquefied
1407 petroleum gas safety, general industry safety standards, and
1408 administrative procedures. The examination must be successfully
1409 passed ~~completed~~ by the applicant with a grade of at least 75
1410 percent ~~or more~~. Each applicant for master qualifier status
1411 shall submit to the department a nonrefundable \$50 ~~\$30~~
1412 examination fee prior to the examination.

1413 (c) Master qualifier status shall expire 3 years after the
1414 date of issuance of the certificate and may be renewed by
1415 submission to the department of documentation of completion of
1416 at least 16 ~~12~~ hours of approved continuing education courses
1417 during the 3-year period; proof of employment with a licensed
1418 category I liquefied petroleum gas dealer, liquefied petroleum
1419 gas installer, or applicant; and a \$30 certificate renewal fee.
1420 The department shall define, by rule, approved courses of
1421 continuing education.

1422 Section 40. Subsection (4) of section 527.021, Florida
1423 Statutes, is amended to read:

1424 527.021 Registration of transport vehicles.--

CS/HB 1447

2009

1425 (4) An inspection fee of \$75 ~~\$50~~ shall be assessed for
 1426 each registered vehicle inspected by the department pursuant to
 1427 s. 527.061. Registered vehicles shall be inspected annually. All
 1428 inspection fees collected in connection with this section shall
 1429 be deposited in the General Inspection Trust Fund for the
 1430 purpose of administering the provisions of this chapter.

1431 Section 41. Section 527.12, Florida Statutes, is amended
 1432 to read:

1433 527.12 Cease and desist orders; stop-use orders; stop-
 1434 operation orders; stop-sale orders; administrative fines.--

1435 (1) Whenever the department has ~~shall have~~ reason to
 1436 believe that any person is violating or has violated ~~been~~
 1437 ~~violating provisions of this chapter or any rules adopted under~~
 1438 this chapter pursuant thereto, the department ~~it~~ may issue a
 1439 cease and desist order, ~~or~~ impose a civil penalty, or do both
 1440 ~~may issue such cease and desist order and impose a civil~~
 1441 ~~penalty.~~

1442 (2) Whenever a person or liquefied petroleum gas system or
 1443 storage facility, or any part or component thereof, fails to
 1444 comply with this chapter or any rules adopted under this
 1445 chapter, the department may issue a stop-use order, stop-
 1446 operation order, or stop-sale order.

1447 Section 42. Subsection (1) of section 559.805, Florida
 1448 Statutes, is amended to read:

1449 559.805 Filings with the department; disclosure of
 1450 advertisement identification number.--

1451 (1) Every seller of a business opportunity shall annually
 1452 file with the department a copy of the disclosure statement

CS/HB 1447

2009

1453 required by s. 559.803 before ~~prior to~~ placing an advertisement
1454 or making any other representation designed to offer to, sell
1455 to, or solicit an offer to buy a business opportunity from a
1456 prospective purchaser in this state and shall update this filing
1457 by reporting any material change in the required information
1458 within 30 days after the material change occurs. An
1459 advertisement is not placed in the state merely because the
1460 publisher circulates, or there is circulated on his or her
1461 behalf in the state, any bona fide newspaper or other
1462 publication of general, regular, and paid circulation which has
1463 had more than two-thirds of its circulation during the past 12
1464 months outside the state or because a radio or television
1465 program originating outside the state is received in the state.
1466 If the seller is required by s. 559.807 to provide a bond or
1467 establish a trust account or guaranteed letter of credit, he or
1468 she shall contemporaneously file with the department a copy of
1469 the bond, a copy of the formal notification by the depository
1470 that the trust account is established, or a copy of the
1471 guaranteed letter of credit. Every seller of a business
1472 opportunity shall file with the department a list of independent
1473 agents who will engage in the offer or sale of business
1474 opportunities on behalf of the seller in this state. This list
1475 must be kept current and shall include the following
1476 information: name, home and business address, telephone number,
1477 present employer, ~~social security number~~, and birth date. A ~~No~~
1478 person may not ~~shall be allowed to~~ offer or sell business
1479 opportunities unless the required information is ~~has been~~
1480 provided to the department.

CS/HB 1447

2009

1481 Section 43. Subsection (3) of section 559.928, Florida
1482 Statutes, is amended to read:

1483 559.928 Registration.--

1484 (3) Each independent agent shall annually file an
1485 affidavit with the department before ~~prior to~~ engaging in
1486 business in this state. This affidavit must include the
1487 independent agent's full name, legal business or trade name,
1488 mailing address, business address, telephone number, ~~social~~
1489 ~~security number~~, and the name or names and addresses of each
1490 seller of travel represented by the independent agent. A letter
1491 evidencing proof of filing must be issued by the department and
1492 must be prominently displayed in the independent agent's primary
1493 place of business. Each independent agent must also submit an
1494 annual registration fee of \$50. All moneys collected pursuant to
1495 the imposition of the fee shall be deposited by the Chief
1496 Financial Officer into the General Inspection Trust Fund of the
1497 Department of Agriculture and Consumer Services for the sole
1498 purpose of administrating this part. As used in this subsection,
1499 the term "independent agent" means a person who represents a
1500 seller of travel by soliciting persons on its behalf; who has a
1501 written contract with a seller of travel which is operating in
1502 compliance with this part and any rules adopted thereunder; who
1503 does not receive a fee, commission, or other valuable
1504 consideration directly from the purchaser for the seller of
1505 travel; who does not at any time have any unissued ticket stock
1506 or travel documents in his or her possession; and who does not
1507 have the ability to issue tickets, vacation certificates, or any
1508 other travel document. The term "independent agent" does not

CS/HB 1447

2009

1509 include an affiliate of the seller of travel, as that term is
 1510 used in s. 559.935(3), or the employees of the seller of travel
 1511 or of such affiliates.

1512 Section 44. Subsection (10) of section 570.07, Florida
 1513 Statutes, is amended to read:

1514 570.07 Department of Agriculture and Consumer Services;
 1515 functions, powers, and duties.--The department shall have and
 1516 exercise the following functions, powers, and duties:

1517 (10) To act as adviser to producers and distributors, when
 1518 requested, ~~and~~ to assist them in the economical and efficient
 1519 distribution of their agricultural products, ~~and~~ to encourage
 1520 cooperative effort among producers to gain economical and
 1521 efficient production of agricultural products, and to adopt
 1522 rules establishing comprehensive best management practices for
 1523 agricultural production and food safety.

1524 Section 45. Subsection (7) of section 570.0725, Florida
 1525 Statutes, is amended to read:

1526 570.0725 Food recovery; legislative intent; department
 1527 functions.--

1528 (7) For public information purposes, the department may
 1529 ~~shall~~ develop and provide a public information ~~brochure~~
 1530 detailing the need for food banks and similar ~~of~~ food recovery
 1531 programs, the benefit of such ~~food recovery~~ programs, the manner
 1532 in which ~~such~~ organizations may become involved in such ~~food~~
 1533 ~~recovery~~ programs, and the protection afforded to such programs
 1534 under s. 768.136, ~~and the food recovery entities or food banks~~
 1535 ~~that exist in the state. This brochure must be updated annually.~~
 1536 A food bank or similar food recovery organization seeking to be

1537 included on a list of such organizations must notify the
 1538 department and provide the information required by rule of the
 1539 department. Such organizations are responsible for updating the
 1540 information and providing the updated information to the
 1541 department. The department may adopt rules to implement this
 1542 section.

1543 Section 46. Paragraph (e) of subsection (2) of section
 1544 570.48, Florida Statutes, is amended to read:

1545 570.48 Division of Fruit and Vegetables; powers and
 1546 duties; records.--The duties of the Division of Fruit and
 1547 Vegetables include, but are not limited to:

1548 (2)

1549 (e) Performing tomato food safety inspections under s.
 1550 500.70 on tomato farms, in tomato greenhouses, and in tomato
 1551 packinghouses and repackers.

1552 Section 47. Paragraph (e) of subsection (6) of section
 1553 570.53, Florida Statutes, is amended to read:

1554 570.53 Division of Marketing and Development; powers and
 1555 duties.--The powers and duties of the Division of Marketing and
 1556 Development include, but are not limited to:

1557 (6)

1558 (e) Extending in every practicable way the distribution
 1559 and sale of Florida agricultural products throughout the markets
 1560 of the world as required of the department by s. ss. 570.07(7),
 1561 (8), (10), and (11) ~~and 570.071~~ and chapters 571, 573, and 574.

1562 Section 48. Subsection (2) of section 570.54, Florida
 1563 Statutes, is amended to read:

1564 570.54 Director; duties.--

CS/HB 1447

2009

1565 (2) It shall be the duty of the director of this division
 1566 to supervise, direct, and coordinate the activities authorized
 1567 by ss. 570.07(4), (7), (8), (10), (11), (12), (17), (18), and
 1568 (20), ~~570.071~~, 570.21, 534.47-534.53, and 604.15-604.34 and
 1569 chapters 504, 571, 573, and 574 and to exercise other powers and
 1570 authority as authorized by the department.

1571 Section 49. Subsection (4) of section 570.55, Florida
 1572 Statutes, is amended to read:

1573 570.55 Identification of sellers or handlers of tropical
 1574 or subtropical fruit and vegetables; containers specified;
 1575 penalties.--

1576 (4) IDENTIFICATION OF HANDLER.--At the time of each
 1577 transaction involving the handling or sale of 55 pounds or more
 1578 of tropical or subtropical fruit or vegetables in the primary
 1579 channel of trade, the buyer or receiver of the tropical or
 1580 subtropical fruit or vegetables shall demand a bill of sale,
 1581 invoice, sales memorandum, or other document listing the date of
 1582 the transaction, the quantity of the tropical or subtropical
 1583 fruit or vegetables involved in the transaction, and the
 1584 identification of the seller or handler as it appears on the
 1585 driver's license of the seller or handler, including the
 1586 driver's license number. If the seller or handler does not
 1587 possess a driver's license, the buyer or receiver shall use any
 1588 other acceptable means of identification, which may include, but
 1589 is not limited to, i.e., voter's registration card and number,
 1590 draft card, ~~social security card,~~ or other identification.
 1591 However, no less than two identification documents shall be
 1592 used. The identification of the seller or handler shall be

CS/HB 1447

2009

1593 recorded on the bill of sale, sales memorandum, invoice, or
 1594 voucher, which shall be retained by the buyer or receiver for a
 1595 period of not less than 1 year from the date of the transaction.

1596 Section 50. Subsection (3) of section 570.902, Florida
 1597 Statutes, is amended to read:

1598 570.902 Definitions; ss. 570.902 and 570.903.--For the
 1599 purpose of ss. 570.902 and 570.903:

1600 ~~(3) "Museum" means the Florida Agricultural Museum which~~
 1601 ~~is designated as the museum for agriculture and rural history of~~
 1602 ~~the State of Florida.~~

1603 Section 51. Section 570.903, Florida Statutes, is amended
 1604 to read:

1605 570.903 Direct-support organization.--

1606 (1) When the Legislature authorizes the establishment of a
 1607 direct-support organization to provide assistance for the
 1608 ~~museums,~~ the Florida Agriculture in the Classroom Program, ~~the~~
 1609 ~~Florida State Collection of Arthropods,~~ the Friends of the
 1610 Florida State Forests Program of the Division of Forestry, and
 1611 the Forestry Arson Alert Program, and other programs of the
 1612 department, the following provisions shall govern the creation,
 1613 use, powers, and duties of the direct-support organization.

1614 (a) The department shall enter into a memorandum or letter
 1615 of agreement with the direct-support organization, which shall
 1616 specify the approval of the department, the powers and duties of
 1617 the direct-support organization, and rules with which the
 1618 direct-support organization shall comply.

1619 (b) The department may permit, without charge, appropriate
 1620 use of property, facilities, and personnel of the department by

1621 a direct-support organization, subject to the provisions of ss.
 1622 570.902 and 570.903. The use shall be directly in keeping with
 1623 the approved purposes of the direct-support organization and
 1624 shall not be made at times or places that would unreasonably
 1625 interfere with opportunities for the general public to use
 1626 department facilities for established purposes.

1627 (c) The department shall prescribe by contract or by rule
 1628 conditions with which a direct-support organization shall comply
 1629 in order to use property, facilities, or personnel of the
 1630 department ~~or museum~~. Such rules shall provide for budget and
 1631 audit review and oversight by the department.

1632 (d) The department shall not permit the use of property,
 1633 facilities, or personnel of the ~~museum,~~ department, or
 1634 designated program by a direct-support organization which does
 1635 not provide equal employment opportunities to all persons
 1636 regardless of race, color, religion, sex, age, or national
 1637 origin.

1638 (2) (a) The direct-support organization shall be empowered
 1639 to conduct programs and activities; raise funds; request and
 1640 receive grants, gifts, and bequests of money; acquire, receive,
 1641 hold, invest, and administer, in its own name, securities,
 1642 funds, objects of value, or other property, real or personal;
 1643 and make expenditures to or for the direct or indirect benefit
 1644 of the ~~museum or~~ designated program.

1645 (b) Notwithstanding the provisions of s. 287.057, the
 1646 direct-support organization may enter into contracts or
 1647 agreements with or without competitive bidding for the
 1648 ~~restoration of objects, historical buildings, and other~~

1649 ~~historical materials or for the purchase of objects, historical~~
1650 ~~buildings, and other historical materials which are to be added~~
1651 ~~to the collections of the museum, or benefit of~~ of the designated
1652 program. However, before the direct-support organization may
1653 enter into a contract or agreement without competitive bidding,
1654 the direct-support organization shall file a certification of
1655 conditions and circumstances with the internal auditor of the
1656 department justifying each contract or agreement.

1657 (c) Notwithstanding the provisions of s. 287.025(1)(e),
1658 the direct-support organization may enter into contracts to
1659 insure property of the ~~museum or~~ designated programs ~~and may~~
1660 ~~insure objects or collections on loan from others in satisfying~~
1661 ~~security terms of the lender.~~

1662 (3) The direct-support organization shall provide for an
1663 annual financial audit in accordance with s. 215.981.

1664 (4) Neither a designated program ~~or a museum~~, nor a
1665 nonprofit corporation trustee or employee may:

1666 (a) Receive a commission, fee, or financial benefit in
1667 connection with the sale or exchange of property ~~historical~~
1668 ~~objects or properties~~ to the direct-support organization, ~~the~~
1669 ~~museum~~, or the designated program; or

1670 (b) Be a business associate of any individual, firm, or
1671 organization involved in the sale or exchange of property to the
1672 direct-support organization, ~~the museum~~, or the designated
1673 program.

1674 (5) All moneys received by the direct-support organization
1675 shall be deposited into an account of the direct-support
1676 organization and shall be used by the organization in a manner

CS/HB 1447

2009

1677 consistent with the goals of ~~the museum~~ or designated program.

1678 (6) The identity of a donor or prospective donor who
 1679 desires to remain anonymous and all information identifying such
 1680 donor or prospective donor are confidential and exempt from the
 1681 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 1682 Constitution.

1683 (7) The Commissioner of Agriculture, or the commissioner's
 1684 designee, may serve on the board of trustees and the executive
 1685 committee of any direct-support organization established to
 1686 benefit the museum or any designated program.

1687 ~~(8) The department shall establish by rule archival~~
 1688 ~~procedures relating to museum artifacts and records. The rules~~
 1689 ~~shall provide procedures which protect the museum's artifacts~~
 1690 ~~and records equivalent to those procedures which have been~~
 1691 ~~established by the Department of State under chapters 257 and~~
 1692 ~~267.~~

1693 Section 52. Subsections (18) through (30) of section
 1694 581.011, Florida Statutes, are renumbered as subsections (17)
 1695 through (29), respectively, and present subsections (17) and
 1696 (20) of that section are amended to read:

1697 581.011 Definitions.--As used in this chapter:

1698 ~~(17) "Museum" means the Florida State Collection of~~
 1699 ~~Arthropods.~~

1700 (19) ~~(20)~~ "Nursery" means any grounds or premises on or in
 1701 which nursery stock is grown, propagated, or held for sale or
 1702 distribution, including ~~except where~~ aquatic plant species ~~are~~
 1703 tended for harvest in the natural environment.

1704 Section 53. Paragraph (d) of subsection (14) of section

CS/HB 1447

2009

1705 581.031, Florida Statutes, is amended to read:

1706 581.031 Department; powers and duties.--The department has
1707 the following powers and duties:

1708 (14)

1709 (d) To prescribe a fee for these services, if ~~provided~~ the
1710 fee does not exceed the cost of the services rendered. Annual
1711 citrus source tree registration fees shall not exceed \$15 ~~\$5~~ per
1712 tree. If the fee has not been paid within 30 days of billing, a
1713 penalty of \$10 or 20 percent of the unpaid balance, whichever is
1714 greater, shall be assessed.

1715 Section 54. Subsection (6) of section 581.131, Florida
1716 Statutes, is amended to read:

1717 581.131 Certificate of registration.--

1718 (6) Neither the certificate of registration fee nor the
1719 annual renewal fee shall exceed \$600 ~~\$460~~. The department may
1720 exempt from the payment of a certificate fee those governmental
1721 agency nurseries whose nursery stock is used exclusively for
1722 planting on their own property.

1723 Section 55. Paragraph (a) of subsection (3) of section
1724 581.211, Florida Statutes, is amended to read:

1725 581.211 Penalties for violations.--

1726 (3)(a)1. In addition to any other provision of law, the
1727 department may, after notice and hearing, impose an
1728 administrative fine not exceeding \$10,000 ~~\$5,000~~ for each
1729 violation of this chapter, upon any person, nurseryman, stock
1730 dealer, agent or plant broker. The fine, when paid, shall be
1731 deposited in the Plant Industry Trust Fund. In addition, the
1732 department may place the violator on probation for up to 1 year,

CS/HB 1447

2009

1733 with conditions.

1734 2. The imposition of a fine or probation pursuant to this
1735 subsection may be in addition to or in lieu of the suspension or
1736 revocation of a certificate of registration or certificate of
1737 inspection.

1738 Section 56. Section 583.13, Florida Statutes, is amended
1739 to read:

1740 583.13 Labeling and advertising requirements for dressed
1741 poultry; unlawful acts.--

1742 (1) It is unlawful for any dealer or broker to sell, offer
1743 for sale, or hold for the purpose of sale in the state any
1744 dressed or ready-to-cook poultry in bulk unless the ~~such~~ poultry
1745 is packed in a container clearly bearing a label, not less than
1746 3 inches by 5 inches, on which shall be plainly and legibly
1747 printed, in letters of not less than one-fourth inch ~~1/4~~ in
1748 height, ~~the grade and the part name or whole-bird statement of~~
1749 ~~such poultry. The grade may be expressed in the term "premium,"~~
1750 ~~"good," or "standard," or as the grade of another state or~~
1751 ~~federal agency the standards of quality of which, by law, are~~
1752 ~~equal to the standards of quality provided by this law and rules~~
1753 ~~promulgated hereunder.~~

1754 (2) It is unlawful to sell unpackaged dressed or ready-to-
1755 cook poultry at retail unless such poultry is labeled by a
1756 placard immediately adjacent to the poultry or unless each bird
1757 is individually labeled to show ~~the grade and the part name or~~
1758 ~~whole-bird statement.~~ The placard shall be no smaller than 7
1759 inches by 7 inches in size, and the required labeling
1760 information shall be legibly and plainly printed on the placard

CS/HB 1447

2009

1761 in letters not smaller than 1 inch in height.

1762 (3) It is unlawful to sell packaged dressed or ready-to-
 1763 cook poultry at retail unless such poultry is labeled to show
 1764 ~~the grade,~~ the part name or whole-bird statement, the net weight
 1765 of the poultry, and the name and address of the dealer. The size
 1766 of the type on the label must be one-eighth inch or larger. A
 1767 placard immediately adjacent to such poultry may be used to
 1768 indicate ~~the grade and~~ the part name or whole-bird statement,
 1769 but not the net weight of the poultry or the name and address of
 1770 the dealer.

1771 (4) It is unlawful to use dressed or ready-to-cook poultry
 1772 in bulk in the preparation of food served to the public, or to
 1773 hold such poultry for the purpose of such use, unless the
 1774 poultry when received was packed in a container clearly bearing
 1775 a label, not less than 3 inches by 5 inches, on which was
 1776 plainly and legibly printed, in letters not less than one-fourth
 1777 inch in height, ~~the grade and~~ the part name or whole-bird
 1778 statement of such poultry. ~~The grade may be expressed in the~~
 1779 ~~term "premium," "good," or "standard," or as the grade of~~
 1780 ~~another state or federal agency the standards of quality of~~
 1781 ~~which, by law, are equal to the standards of quality provided by~~
 1782 ~~this law and rules promulgated hereunder.~~

1783 (5) It is unlawful to offer dressed or ready-to-cook
 1784 poultry for sale in any advertisement in a newspaper or
 1785 circular, on radio or television, or in any other form of
 1786 advertising without plainly designating in such advertisement
 1787 ~~the grade and~~ the part name or whole-bird statement of such
 1788 poultry.

1789 Section 57. Subsections (4) and (5) of section 590.125,
 1790 Florida Statutes, are renumbered as subsections (5) and (6),
 1791 respectively, subsection (1), paragraph (b) of subsection (3),
 1792 and paragraph (c) of present subsection (4) are amended, and new
 1793 subsections (4) and (7) are added to that section, to read:

1794 590.125 Open burning authorized by the division.--

1795 (1) DEFINITIONS.--As used in this section, the term:

1796 (a) "Certified pile burner" means an individual who
 1797 successfully completes the division's pile burning certification
 1798 program and possesses a valid pile burner certification number.

1799 (b) "Certified prescribed burn manager" means an
 1800 individual who successfully completes the certified prescribed
 1801 burning certification program of the division and possesses a
 1802 valid certification number.

1803 (c) ~~(d)~~ "Extinguished" means:

1804 1. ~~that no spreading flame~~ For wild land burning or
 1805 certified prescribed burning, that no spreading flames exist.

1806 2. ~~and no visible flame, smoke, or emissions~~ For
 1807 vegetative land-clearing debris burning or pile burning, that no
 1808 visible flames exist.

1809 3. For vegetative land-clearing debris burning or pile
 1810 burning in an area designated as smoke sensitive by the
 1811 division, that no visible flames, smoke, or emissions exist.

1812 (d) "Land-clearing operation" means the uprooting or
 1813 clearing of vegetation in connection with the construction of
 1814 buildings and rights-of-way, land development, and mineral
 1815 operations. The term does not include the clearing of yard
 1816 trash.

1817 (e) "Pile burning" means the burning of silvicultural,
 1818 agricultural, or land-clearing and tree-cutting debris
 1819 originating onsite, which is stacked together in a round or
 1820 linear fashion, including, but not limited to, a windrow.

1821 (f)~~(a)~~ "Prescribed burning" means the controlled
 1822 application of fire in accordance with a written prescription
 1823 for vegetative fuels under specified environmental conditions
 1824 while following appropriate precautionary measures that ensure
 1825 that the fire is confined to a predetermined area to accomplish
 1826 the planned fire or land-management objectives.

1827 (g)~~(e)~~ "Prescription" means a written plan establishing
 1828 the criteria necessary for starting, controlling, and
 1829 extinguishing a prescribed burn.

1830 (h) "Yard trash" means vegetative matter resulting from
 1831 landscaping and yard maintenance operations and other such
 1832 routine property cleanup activities. The term includes materials
 1833 such as leaves, shrub trimmings, grass clippings, brush, and
 1834 palm fronds.

1835 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
 1836 PURPOSE.--

1837 (b) Certified prescribed burning pertains only to
 1838 broadcast burning for purposes of silviculture, wildlife
 1839 management, ecological maintenance and restoration, and range
 1840 and pasture management. It must be conducted in accordance with
 1841 this subsection and:

1842 1. May be accomplished only when a certified prescribed
 1843 burn manager is present on site with a copy of the prescription
 1844 from ignition of the burn to its completion.

CS/HB 1447

2009

1845 2. Requires that a written prescription be prepared before
1846 receiving authorization to burn from the division.

1847 3. Requires that the specific consent of the landowner or
1848 his or her designee be obtained before requesting an
1849 authorization.

1850 4. Requires that an authorization to burn be obtained from
1851 the division before igniting the burn.

1852 5. Requires that there be adequate firebreaks at the burn
1853 site and sufficient personnel and firefighting equipment for the
1854 control of the fire.

1855 6. Is considered to be in the public interest and does not
1856 constitute a public or private nuisance when conducted under
1857 applicable state air pollution statutes and rules.

1858 7. Is considered to be a property right of the property
1859 owner if vegetative fuels are burned as required in this
1860 subsection.

1861 (4) CERTIFIED PILE BURNING; LEGISLATIVE FINDINGS AND
1862 PURPOSE.--

1863 (a) Pile burning is a tool that benefits current and
1864 future generations in Florida by disposing of naturally
1865 occurring vegetative debris through burning rather than
1866 disposing of the debris in landfills.

1867 (b) Certified pile burning pertains to the disposal of
1868 piled, naturally occurring debris from an agricultural,
1869 silvicultural, or temporary land-clearing operation. A land-
1870 clearing operation is temporary if it operates for 6 months or
1871 less. Certified pile burning must be conducted in accordance
1872 with this subsection, and:

1873 1. A certified pile burner must ensure, before ignition,
 1874 that the piles are properly placed and that the content of the
 1875 piles is conducive to efficient burning.

1876 2. A certified pile burner must ensure that the piles are
 1877 properly extinguished no later than 1 hour after sunset. If the
 1878 burn is conducted in an area designated by the division as smoke
 1879 sensitive, a certified pile burner must ensure that the piles
 1880 are properly extinguished at least 1 hour before sunset.

1881 3. A written pile burn plan must be prepared before
 1882 receiving authorization from the division to burn.

1883 4. The specific consent of the landowner or his or her
 1884 agent must be obtained before requesting authorization to burn.

1885 5. An authorization to burn must be obtained from the
 1886 division or its designated agent before igniting the burn.

1887 6. There must be adequate firebreaks and sufficient
 1888 personnel and firefighting equipment at the burn site to control
 1889 the fire.

1890 (c) If a burn is conducted in accordance with this
 1891 subsection, the property owner and his or her agent are not
 1892 liable under s. 590.13 for damage or injury caused by the fire
 1893 or resulting smoke, and are not in violation of subsection (2),
 1894 unless gross negligence is proven.

1895 (d) A certified pile burner who violates this section
 1896 commits a misdemeanor of the second degree, punishable as
 1897 provided in s. 775.082 or s. 775.083.

1898 (e) The division shall adopt rules regulating certified
 1899 pile burning. The rules shall include procedures and criteria
 1900 for certifying and decertifying certified pile burn managers

1901 based on past experience, training, and record of compliance
 1902 with this section.

1903 (5)-(4) WILDFIRE HAZARD REDUCTION TREATMENT BY THE
 1904 DIVISION.--The division may conduct fuel reduction initiatives,
 1905 including, but not limited to, burning and mechanical and
 1906 chemical treatment, on any area of wild land within the state
 1907 which is reasonably determined to be in danger of wildfire in
 1908 accordance with the following procedures:

1909 (c) Prepare, and send the county tax collector shall
 1910 include with the annual tax statement, a notice to be sent to
 1911 all landowners in each area township designated by the division
 1912 as a wildfire hazard area. The notice must describe particularly
 1913 the area to be treated and the tentative date or dates of the
 1914 treatment and must list the reasons for and the expected
 1915 benefits from the wildfire hazard reduction.

1916 (7) DIVISION APPROVAL OF LOCAL GOVERNMENT OPEN BURNING
 1917 AUTHORIZATION PROGRAMS.--

1918 (a) A county or municipality may exercise the division's
 1919 authority, if delegated by the division under this subsection,
 1920 to issue authorizations for the burning of yard trash or debris
 1921 from land-clearing operations. A county's or municipality's
 1922 existing or proposed open burning authorization program must:

1923 1. Be approved by the division. The division shall not
 1924 approve a program if it fails to meet the requirements of
 1925 subsections (2) and (4) and any rules adopted under those
 1926 subsections.

1927 2. Provide by ordinance or local law the requirements for
 1928 obtaining and performing a burn authorization that comply with

1929 subsections (2) and (4) and any rules adopted under those
 1930 subsections.

1931 3. Provide for the enforcement of the program's
 1932 requirements.

1933 4. Provide financial, personnel, and other resources
 1934 needed to carry out the program.

1935 (b) If the division determines that a county's or
 1936 municipality's open burning authorization program does not
 1937 comply with subsections (2) and (4) and any rules adopted under
 1938 those subsections, the division shall require the county or
 1939 municipality to take necessary corrective actions within a
 1940 reasonable period, not to exceed 90 days.

1941 1. If the county or municipality fails to take the
 1942 necessary corrective actions within the required period, the
 1943 division shall resume administration of the open burning
 1944 authorization program in the county or municipality and the
 1945 county or municipality shall cease administration of its
 1946 program.

1947 2. Each county and municipality administering an open
 1948 burning authorization program must cooperate with and assist the
 1949 division in carrying out the division's powers, duties, and
 1950 functions.

1951 3. A person who violates the requirements of a county's or
 1952 municipality's open burning authorization program, as provided
 1953 by ordinance or local law enacted pursuant to this section,
 1954 commits a violation of this chapter, punishable as provided in
 1955 s. 590.14.

1956 Section 58. Subsection (4) of section 590.14, Florida

1957 Statutes, is renumbered as subsection (7), subsections (1) and
 1958 (3) are amended, and new subsections (4), (5), and (6) are added
 1959 to that section, to read:

1960 590.14 Notice of violation; penalties.--

1961 (1) If a division employee determines that a person has
 1962 violated chapter 589, ~~or~~ this chapter, or any rule adopted by
 1963 the division to administer provisions of law conferring duties
 1964 upon the division, the division employee ~~he or she~~ may issue a
 1965 notice of violation indicating the statute violated. This notice
 1966 will be filed with the division and a copy forwarded to the
 1967 appropriate law enforcement entity for further action if
 1968 necessary.

1969 (3) The department may also impose an administrative fine,
 1970 not to exceed \$1,000 per violation of any section of chapter 589
 1971 or this chapter or violation of any rule adopted by the division
 1972 to administer provisions of law conferring duties upon the
 1973 division. The fine shall be based upon the degree of damage, the
 1974 prior violation record of the person, and whether the person
 1975 knowingly provided false information to obtain an authorization.
 1976 The fines shall be deposited in the Incidental Trust Fund of the
 1977 division.

1978 (4) A person may not:

1979 (a) Fail to comply with any rule or order adopted by the
 1980 division to administer provisions of law conferring duties upon
 1981 the division; or

1982 (b) Knowingly make any false statement or representation
 1983 in any application, record, plan, or other document required by
 1984 this chapter or any rules adopted under this chapter.

CS/HB 1447

2009

1985 (5) A person who violates paragraph (4) (a) or paragraph
 1986 (4) (b) commits a misdemeanor of the second degree, punishable as
 1987 provided in s. 775.082 or s. 775.083.

1988 (6) It is the intent of the Legislature that a penalty
 1989 imposed by a court under subsection (5) be of a severity that
 1990 ensures immediate and continued compliance with this section.

1991 Section 59. Paragraph (a) of subsection (1) of section
 1992 599.004, Florida Statutes, is amended to read:

1993 599.004 Florida Farm Winery Program; registration; logo;
 1994 fees.--

1995 (1) The Florida Farm Winery Program is established within
 1996 the Department of Agriculture and Consumer Services. Under this
 1997 program, a winery may qualify as a tourist attraction only if it
 1998 is registered with and certified by the department as a Florida
 1999 Farm Winery. A winery may not claim to be certified unless it
 2000 has received written approval from the department.

2001 (a) To qualify as a certified Florida Farm Winery, a
 2002 winery shall meet the following standards:

2003 1. Produce or sell less than 250,000 gallons of wine
 2004 annually.

2005 2. Maintain a minimum of 10 acres of owned or managed land
 2006 ~~vineyards~~ in Florida which produces commodities used in the
 2007 production of wine.

2008 3. Be open to the public for tours, tastings, and sales at
 2009 least 30 hours each week.

2010 4. Make annual application to the department for
 2011 recognition as a Florida Farm Winery, on forms provided by the
 2012 department.

CS/HB 1447

2009

2013 5. Pay an annual application and registration fee of \$100.

2014 Section 60. Subsection (1) of section 604.15, Florida
 2015 Statutes, is amended, and subsection (11) is added to that
 2016 section, to read:

2017 604.15 Dealers in agricultural products; definitions.--For
 2018 the purpose of ss. 604.15-604.34, the following words and terms,
 2019 when used, shall be construed to mean:

2020 (1) "Agricultural products" means the natural products of
 2021 the farm, nursery, grove, orchard, vineyard, garden, and apiary
 2022 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
 2023 livestock; milk and milk products; poultry and poultry products;
 2024 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*
 2025 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety
 2026 Persian, Tahiti, Bearss, or Florida Key limes); and any other
 2027 nonexempt agricultural products produced in the state, except
 2028 tobacco, sugarcane, tropical foliage, timber and timber
 2029 byproducts, forest products as defined in s. 591.17, and citrus
 2030 other than limes.

2031 (11) "Responsible position" means a position within the
 2032 business of a dealer in agricultural products that has the
 2033 authority to negotiate or make the purchase of agricultural
 2034 products on behalf of the dealer's business or has principal
 2035 active management authority over the business decisions,
 2036 actions, and activities of the dealer's business in this state.

2037 Section 61. Section 604.19, Florida Statutes, is amended
 2038 to read:

2039 604.19 License; fee; bond; certificate of deposit;
 2040 penalty.--Unless the department refuses the application on one

2041 or more of the grounds provided in this section, it shall issue
 2042 to an applicant, upon the payment of required fees and the
 2043 execution and delivery of a bond or certificate of deposit as
 2044 provided in this section, a state license entitling the
 2045 applicant to conduct business as a dealer in agricultural
 2046 products for a 1-year period to coincide with the effective
 2047 period of the bond or certificate of deposit furnished by the
 2048 applicant. During the 1-year period covered by a license, if the
 2049 supporting surety bond or certificate of deposit is canceled for
 2050 any reason, the license shall automatically expire on the date
 2051 the surety bond or certificate of deposit terminates, unless an
 2052 acceptable replacement is in effect before the date of
 2053 termination so that continual coverage occurs for the remaining
 2054 period of the license. A surety company shall give the
 2055 department a 30-day written notice of cancellation by certified
 2056 mail in order to cancel a bond. Cancellation of a bond or
 2057 certificate of deposit does ~~shall~~ not relieve a surety company
 2058 or financial institution of liability for purchases or sales
 2059 occurring while the bond or certificate of deposit was in
 2060 effect. The license fee, which must be paid for the principal
 2061 place of business for a dealer in agricultural products, shall
 2062 be based upon the amount of the dealer's surety bond or
 2063 certificate of deposit furnished by each dealer under the
 2064 provisions of s. 604.20 and may not exceed \$500. For each
 2065 additional place in which the applicant desires to conduct
 2066 business and which the applicant names in the application, the
 2067 additional license fee must be paid but may not exceed \$100
 2068 annually. If a ~~Should any~~ dealer in agricultural products fails,

CS/HB 1447

2009

2069 refuses, or neglects ~~fail, refuse, or neglect~~ to apply and
 2070 qualify for the renewal of a license on or before its ~~the date~~
 2071 ~~of expiration date thereof~~, a penalty not to exceed \$100 shall
 2072 apply to and be added to the ~~original~~ license fee for the
 2073 principal place of business and to the license fee for each
 2074 additional place of business named in the application and shall
 2075 be paid by the applicant before the renewal license may be
 2076 issued. The department by rule shall prescribe fee amounts
 2077 sufficient to fund ss. 604.15-604.34.

2078 Section 62. Subsections (1) and (4) of section 604.20,
 2079 Florida Statutes, are amended to read:

2080 604.20 Bond or certificate of deposit prerequisite;
 2081 amount; form.--

2082 (1) Before any license is issued, the applicant therefor
 2083 shall make and deliver to the department a surety bond or
 2084 certificate of deposit in the amount of at least \$5,000 or in
 2085 such greater amount as the department may determine. No bond or
 2086 certificate of deposit may be in an amount less than \$5,000. The
 2087 penal sum of the bond or certificate of deposit to be furnished
 2088 to the department by an applicant for license as a dealer in
 2089 agricultural products shall be in an amount equal to twice the
 2090 average of the monthly dollar amounts ~~amount~~ of agricultural
 2091 products handled for a Florida producer or a producer's agent or
 2092 representative, by purchase or otherwise, ~~during the month of~~
 2093 ~~maximum transaction in such products~~ during the preceding 12-
 2094 month period. Only those months in which the applicant handled,
 2095 by purchase or otherwise, amounts equal to or greater than
 2096 \$1,000 shall be used to calculate the penal sum of the required

2097 bond or certificate of deposit. An applicant for license who has
 2098 not handled agricultural products for a Florida producer or a
 2099 producer's agent or representative, by purchase or otherwise,
 2100 during the preceding 12-month period shall furnish a bond or
 2101 certificate of deposit in an amount equal to twice the estimated
 2102 average of the monthly dollar amounts ~~amount~~ of such
 2103 agricultural products to be handled, by purchase or otherwise,
 2104 ~~during the month of maximum transaction~~ during the next
 2105 immediate 12 months. Only those months in which the applicant
 2106 anticipates handling, by purchase or otherwise, amounts equal to
 2107 or greater than \$1,000 shall be used to calculate the penal sum
 2108 of the required bond or certificate of deposit. Such bond or
 2109 certificate of deposit shall be provided or assigned in the
 2110 exact name in which the dealer will conduct business subject to
 2111 the provisions of ss. 604.15-604.34. Such bond must be executed
 2112 by a surety company authorized to transact business in the
 2113 state. For the purposes of ss. 604.19-604.21, the term
 2114 "certificate of deposit" means a certificate of deposit at any
 2115 recognized financial institution doing business in the United
 2116 States. No certificate of deposit may be accepted in connection
 2117 with an application for a dealer's license unless the issuing
 2118 institution is properly insured by either the Federal Deposit
 2119 Insurance Corporation or the Federal Savings and Loan Insurance
 2120 Corporation. Such bond or any certificate of deposit assignment
 2121 or agreement shall be upon a form prescribed or approved by the
 2122 department and shall be conditioned to secure the faithful
 2123 accounting for and payment, in the manner prescribed by s.
 2124 604.21(9), to producers or their agents or representatives of

2125 | the proceeds of all agricultural products handled or purchased
 2126 | by such dealer, ~~and~~ to secure payment to dealers who sell
 2127 | agricultural products to such dealer, and to pay any claims or
 2128 | costs ordered under s. 604.21 as the result of a complaint. Such
 2129 | bond or certificate of deposit assignment or agreement shall
 2130 | include terms binding the instrument to the Commissioner of
 2131 | Agriculture. A certificate of deposit shall be presented with an
 2132 | assignment of applicant's rights in the certificate in favor of
 2133 | the Commissioner of Agriculture on a form prescribed by the
 2134 | department and with a letter from the issuing institution
 2135 | acknowledging that the assignment has been properly recorded on
 2136 | the books of the issuing institution and will be honored by the
 2137 | issuing institution. Such assignment shall be irrevocable while
 2138 | the dealer's license is in effect and for an additional period
 2139 | of 6 months after the termination or expiration of the dealer's
 2140 | license, provided no complaint is pending against the licensee.
 2141 | If a complaint is pending, the assignment shall remain in effect
 2142 | until all actions on the complaint have been finalized. The
 2143 | certificate of deposit may be released by the assignee of the
 2144 | financial institution to the licensee or the licensee's
 2145 | successors, assignee, or heirs if no claims are pending against
 2146 | the licensee before the department at the conclusion of 6 months
 2147 | after the last effective date of the license. No certificate of
 2148 | deposit shall be accepted that contains any provision that would
 2149 | give the issuing institution any prior rights or claim on the
 2150 | proceeds or principal of such certificate of deposit. The
 2151 | department shall determine by rule the maximum amount of bond or
 2152 | certificate of deposit required of a dealer and whether an

2153 annual bond or certificate of deposit will be required.

2154 (4) The department may issue a conditional license to an
 2155 applicant who is unable to provide a single bond or certificate
 2156 of deposit in the full amount required by the calculation in
 2157 subsection (1). The conditional license shall remain in effect
 2158 for a 1-year period to coincide with the effective period of the
 2159 bond or certificate of deposit furnished by the applicant. The
 2160 applicant must provide at least the minimum \$5,000 bond or
 2161 certificate of deposit as provided in subsection (1) together
 2162 with documentation from each of three separate bonding companies
 2163 denying the applicants request for a surety bond in the full
 2164 amount required in subsection (1) and one of the following:

2165 (a) A notarized affidavit limiting the handling of
 2166 agricultural products, by purchase or otherwise, during their
 2167 largest month to a minimum of one-half the amount of the bond or
 2168 certificate of deposit provided by the applicant;

2169 (b) A notarized affidavit stating that any subject
 2170 agricultural products, handled by purchase or otherwise,
 2171 exceeding one-half of the amount of the bond or certificate of
 2172 deposit will be handled under the exemption provisions set forth
 2173 in s. 604.16(2); or

2174 (c) A second bond or certificate of deposit in such an
 2175 amount that, when the penal sum of the second bond or
 2176 certificate of deposit is added to the penal sum of the first
 2177 bond or certificate of deposit, the combined penal sum will
 2178 equal twice the dollar amount of agricultural products handled
 2179 for a Florida producer or a producer's agent or representative,
 2180 by purchase or otherwise, during the month of maximum

2181 transaction in such products during the preceding 12-month
 2182 period.

2183
 2184 The department or its agents may require from any licensee who
 2185 is issued a conditional license verified statements of the
 2186 volume of the licensee's business or may review the licensee's
 2187 records at the licensee's place of business during normal
 2188 business hours to determine the licensee's adherence to the
 2189 conditions of the license. The failure of a licensee to furnish
 2190 such statement or to make such records available shall be cause
 2191 for suspension of the licensee's conditional license. If the
 2192 department finds such failure to be willful, the conditional
 2193 license may be revoked.

2194 Section 63. Section 604.25, Florida Statutes, is amended
 2195 to read:

2196 604.25 Denial of, refusal to renew ~~grant~~, or suspension or
 2197 revocation of, license.--

2198 ~~(1)~~ The department may deny, refuse to renew, ~~decline to~~
 2199 ~~grant a license~~ or may suspend or revoke a license ~~already~~
 2200 ~~granted~~ if the applicant or licensee has:

2201 (1) ~~(a)~~ Suffered a monetary judgment entered against the
 2202 applicant or licensee ~~upon which is execution has been returned~~
 2203 unsatisfied;

2204 (2) ~~(b)~~ Made false charges for handling or services
 2205 rendered;

2206 (3) ~~(c)~~ Failed to account promptly and properly or to make
 2207 settlements with any producer;

2208 (4) ~~(d)~~ Made any false statement or statements as to

CS/HB 1447

2009

2209 condition, quality, or quantity of goods received or held for
 2210 sale when the true condition, quality, or quantity could have
 2211 been ascertained by reasonable inspection;

2212 (5)~~(e)~~ Made any false or misleading statement or
 2213 statements as to market conditions or service rendered;

2214 (6)~~(f)~~ Been guilty of a fraud in the attempt to procure,
 2215 or the procurement of, a license;

2216 (7)~~(g)~~ Directly or indirectly sold agricultural products
 2217 received on consignment or on a net return basis for her or his
 2218 own account, without prior authority from the producer
 2219 consigning the same, or without notifying such producer;

2220 (8)~~(h)~~ Failed to prevent a person from holding a position
 2221 as the applicant's or licensee's owner, officer, director,
 2222 general or managing partner, or employee ~~Employed~~ in a
 2223 responsible position ~~a person~~, or holding any other similarly
 2224 situated position, if the person holds or has held a similar
 2225 position with any entity that an officer of a corporation, who
 2226 has failed to fully comply with an order of the department, has
 2227 not satisfied a civil judgment held by the department, has
 2228 pending any administrative or civil enforcement action by the
 2229 department, or has pending any criminal charges pursuant to s.
 2230 604.30 at any time within 1 year after issuance;

2231 (9)~~(i)~~ Violated any statute or rule relating to the
 2232 purchase or sale of any agricultural product, whether or not
 2233 such transaction is subject to the provisions of this chapter;
 2234 ~~or~~

2235 (10)~~(j)~~ Failed to submit to the department an application,
 2236 appropriate license fees, and an acceptable surety bond or

CS/HB 1447

2009

2237 certificate of deposit; or-

2238 ~~(11)(2) Failed If a licensee fails or refused refuses to~~
 2239 ~~comply in full with an order of the department or failed to~~
 2240 ~~satisfy a civil judgment owed to the department, her or his~~
 2241 ~~license may be suspended or revoked, in which case she or he~~
 2242 ~~shall not be eligible for license for a period of 1 year or~~
 2243 ~~until she or he has fully complied with the order of the~~
 2244 ~~department.~~

2245 ~~(3) No person, or officer of a corporation, whose license~~
 2246 ~~has been suspended or revoked for failure to comply with an~~
 2247 ~~order of the department may hold a responsible position with a~~
 2248 ~~licensee for a period of 1 year or until the order of the~~
 2249 ~~department has been fully complied with.~~

2250 Section 64. Subsections (18) and (19) of section 616.242,
 2251 Florida Statutes, are renumbered as subsections (19) and (20),
 2252 respectively, and a new subsection (18) is added to that section
 2253 to read:

2254 616.242 Safety standards for amusement rides.--

2255 (18) STOP-OPERATION ORDERS.--If an owner or amusement ride
 2256 fails to comply with this chapter or any rule adopted under this
 2257 chapter, the department may issue a stop-operation order.

2258 Section 65. Paragraph (c) of subsection (5) of section
 2259 790.06, Florida Statutes, is amended to read:

2260 790.06 License to carry concealed weapon or firearm.--

2261 (5) The applicant shall submit to the Department of
 2262 Agriculture and Consumer Services:

2263 (c) A full set of fingerprints of the applicant
 2264 administered by a law enforcement agency or the Division of

CS/HB 1447

2009

2265 | Licensing of the Department of Agriculture and Consumer
2266 | Services.

2267 | Section 66. Sections 570.071 and 570.901, Florida
2268 | Statutes, are repealed.

2269 | Section 67. This act shall take effect July 1, 2009.