

By the Committees on Regulated Industries; and Agriculture; and  
Senator Dean

580-04107-09

2009868c2

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

580-04107-09

2009868c2

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

580-04107-09

2009868c2

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

580-04107-09

2009868c2

88 payment for certain fees; amending s. 493.6406, F.S.;

89 requiring recovery agent school and instructor

90 licenses; providing license application requirements

91 and procedures; amending s. 500.03, F.S.; revising the

92 term "food establishment" to include tomato repackers

93 for purposes of the Florida Food Safety Act; creating

94 s. 500.70, F.S.; defining terms; requiring minimum

95 food safety standards for producing, harvesting,

96 packing, and repacking tomatoes; authorizing the

97 department to inspect tomato farms, greenhouses, and

98 packinghouses or repackers; providing penalties;

99 authorizing the department to establish good

100 agricultural practices and best management practices

101 for the tomato industry by rule; providing a

102 presumption that tomatoes introduced into commerce are

103 safe for human consumption under certain

104 circumstances; exempting certain tomatoes from certain

105 food safety standards and good agricultural practices

106 and best management practices; authorizing the

107 department to adopt rules; amending ss. 501.605 and

108 501.607, F.S.; revising application requirements for

109 commercial telephone seller and salesperson licenses;

110 amending s. 501.913, F.S.; specifying the sample size

111 required for antifreeze registration application;

112 amending s. 525.01, F.S.; revising requirements for

113 petroleum fuel affidavits; amending s. 525.09, F.S.;

114 imposing an inspection fee on certain alternative

115 fuels containing alcohol; amending s. 526.50, F.S.;

116 defining terms applicable to regulation of the sale of

580-04107-09

2009868c2

117 brake fluid; amending s. 526.51, F.S.; revising brake  
118 fluid permit application requirements; deleting permit  
119 renewal requirements; providing for reregistration of  
120 brake fluid and establishing fees; amending s. 526.52,  
121 F.S.; revising requirements for printed statements on  
122 brake fluid containers; amending s. 526.53, F.S.;  
123 revising requirements and procedures for brake fluid  
124 stop-sale orders; authorizing businesses to dispose of  
125 unregistered brake fluid under certain circumstances;  
126 amending s. 527.02, F.S.; increasing fees for  
127 liquefied petroleum gas licenses; revising fees for  
128 pipeline system operators; amending s. 527.0201, F.S.;  
129 revising requirements for liquefied petroleum gas  
130 qualifying examinations; increasing examination fees;  
131 increasing continuing education requirements for  
132 certain liquefied petroleum gas qualifiers; amending  
133 s. 527.021, F.S.; requiring the annual inspection of  
134 liquefied petroleum gas transport vehicles; increasing  
135 the inspection fee; amending s. 527.12, F.S.;  
136 providing for the issuance of certain stop orders;  
137 amending ss. 559.805 and 559.928, F.S.; deleting  
138 requirements that lists of independent agents of  
139 sellers of business opportunities and the agents'  
140 registration affidavits include the agents' social  
141 security numbers; amending s. 570.07, F.S.;  
142 authorizing the department to adopt best management  
143 practices for agricultural production and food safety;  
144 amending s. 570.0725, F.S.; revising provisions for  
145 public information about food banks and similar food

580-04107-09

2009868c2

146 recovery programs; authorizing the department to adopt  
147 rules; amending s. 570.48, F.S.; revising duties of  
148 the Division of Fruit and Vegetables for tomato food  
149 safety inspections; amending ss. 570.53 and 570.54,  
150 F.S.; conforming cross-references; amending s. 570.55,  
151 F.S.; revising requirements for identifying sellers or  
152 handlers of tropical or subtropical fruit or  
153 vegetables; amending s. 570.902, F.S.; conforming  
154 terminology to the repeal by the act of provisions  
155 establishing the Florida Agricultural Museum; amending  
156 s. 570.903, F.S.; revising provisions for direct-  
157 support organizations for certain agricultural  
158 programs to conform to the repeal by the act of  
159 provisions establishing the Florida Agricultural  
160 Museum; deleting provisions for a direct-support  
161 organization for the Florida State Collection of  
162 Arthropods; amending s. 573.118, F.S.; requiring the  
163 Department of Agriculture and Consumer Services to  
164 maintain certain records relating to marketing orders;  
165 requiring the department to conduct audits relating to  
166 marketing orders upon the request of an advisory  
167 council; amending s. 581.011, F.S.; deleting  
168 terminology relating to the Florida State Collection  
169 of Arthropods; revising the term "nursery" for  
170 purposes of plant industry regulations; amending s.  
171 581.031, F.S.; increasing citrus source tree  
172 registration fees; amending s. 581.131, F.S.;  
173 increasing registration fees for a nurseryman, stock  
174 dealer, agent, or plant broker certificate; amending

580-04107-09

2009868c2

175 s. 581.211, F.S.; increasing the maximum fine for  
176 violations of plant industry regulations; amending s.  
177 583.13, F.S.; deleting a prohibition on the sale of  
178 poultry without displaying the poultry grade; amending  
179 s. 590.125, F.S.; revising terminology for open  
180 burning authorizations; specifying purposes of  
181 certified prescribed burning; requiring the  
182 authorization of the Division of Forestry for  
183 certified pile burning; providing pile burning  
184 requirements; limiting the liability of property  
185 owners or agents engaged in pile burning; providing  
186 for the certification of pile burners; providing  
187 penalties for violations by certified pile burners;  
188 requiring rules; revising notice requirements for  
189 wildfire hazard reduction treatments; providing for  
190 approval of local government open burning  
191 authorization programs; providing program  
192 requirements; authorizing the division to close local  
193 government programs under certain circumstances;  
194 providing penalties for violations of local government  
195 open burning requirements; amending s. 590.14, F.S.;  
196 authorizing fines for violations of any division rule;  
197 providing penalties for certain violations; providing  
198 legislative intent; amending s. 599.004, F.S.;  
199 revising standards that a winery must meet to qualify  
200 as a certified Florida Farm Winery; amending s.  
201 604.15, F.S.; revising the term "agricultural  
202 products" to make tropical foliage exempt from  
203 regulation under provisions relating to dealers in

580-04107-09

2009868c2

204 agricultural products; defining the term "responsible  
205 position"; amending s. 604.19, F.S.; revising  
206 requirements for late fees on agricultural products  
207 dealer applications; amending s. 604.20, F.S.;  
208 revising the minimum amount of the surety bond or  
209 certificate of deposit required for agricultural  
210 products dealer licenses; providing conditions for the  
211 payment of bond or certificate of deposit proceeds;  
212 requiring additional documentation for issuance of a  
213 conditional license; amending s. 604.25, F.S.;  
214 authorizing the department to deny licenses to certain  
215 applicants; deleting a provision prohibiting certain  
216 persons from holding a responsible position with a  
217 licensee; amending s. 616.242, F.S.; authorizing the  
218 issuance of stop-operation orders for amusement rides  
219 under certain circumstances; amending s. 790.06, F.S.;  
220 authorizing a concealed firearm license applicant to  
221 submit fingerprints administered by the Division of  
222 Licensing; amending s. 849.094, F.S.; providing and  
223 revising definitions; prohibiting the Department of  
224 Agriculture and Consumer Services from accepting a  
225 filing of a copy of the rules, prizes, and regulations  
226 of a game promotion from certain persons,  
227 corporations, or associations; requiring an operator  
228 of a game promotion to file a certification from an  
229 independent testing laboratory to the department;  
230 requiring an operator of certain game promotions to  
231 establish a trust account with a balance equal to the  
232 total value of all prizes offered; requiring the



580-04107-09

2009868c2

233 official of the financial institution holding the  
234 trust account to set forth the account number of the  
235 trust account; authorizing the operator to obtain a  
236 surety bond from a surety authorized to do business in  
237 this state; providing that the moneys held in the  
238 trust account may be withdrawn only upon written  
239 approval by the department; requiring the operator to  
240 certify certain information to the department;  
241 providing requirements for a surety bond obtained in  
242 lieu of establishing a trust account; providing a date  
243 for the final determination of winners after the  
244 ending date of a game promotion; deleting the  
245 provision that exempts the activities of nonprofit  
246 organizations from the requirements of operating a  
247 game promotion; providing that certain statutory  
248 provisions do not prohibit the use of certain  
249 electronic devices or computer terminals to conduct or  
250 display the results of a game promotion; providing  
251 that each specified electronic device or computer  
252 terminal is a separate game promotion; requiring a  
253 separate filing fee for each device or terminal;  
254 requiring an operator of a game promotion that uses  
255 certain electronic devices or computer terminals to  
256 comply with certain requirements; repealing ss.  
257 570.071 and 570.901, F.S., relating to the Florida  
258 Agricultural Exposition and the Florida Agricultural  
259 Museum; providing an effective date.

260

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

580-04107-09

2009868c2

262

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

265 482.021 Definitions.—For the purposes of this chapter, and  
266 unless otherwise required by the context, the term:

267 (5) "Certified operator in charge" means a certified  
268 operator:

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

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

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

274 (7) "Employee" means a person who is employed by a licensee  
275 that provides that person with necessary training, supervision,  
276 pesticides, equipment, and insurance and who receives  
277 compensation from and is under the ~~personal~~ supervision ~~and~~  
278 ~~direct control~~ of the licensee's certified operator in charge  
279 and from whose compensation the licensee regularly deducts and  
280 matches federal insurance contributions and federal income and  
281 Social Security taxes.

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

284 482.051 Rules.—The department has authority to adopt rules  
285 pursuant to ss. 120.536(1) and 120.54 to implement the  
286 provisions of this chapter. Prior to proposing the adoption of a  
287 rule, the department shall counsel with members of the pest  
288 control industry concerning the proposed rule. The department  
289 shall adopt rules for the protection of the health, safety, and  
290 welfare of pest control employees and the general public which

580-04107-09

2009868c2

291 require:

292 (3) That written contracts be required for providing  
293 termites and other wood-destroying organisms pest control, that  
294 provisions necessary to assure consumer protection as specified  
295 by the department be included in such contracts, that licensees  
296 perform an inspection before issuing a contract on an existing  
297 structure, and that ~~require~~ licensees ~~to~~ comply with the  
298 contracts issued.

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

301 482.071 Licenses.—

302 (4) A licensee may not operate a pest control business  
303 without carrying the required insurance coverage. Each person  
304 making application for a pest control business license or  
305 renewal thereof must furnish to the department a certificate of  
306 insurance that meets the requirements for minimum financial  
307 responsibility for bodily injury and property damage consisting  
308 of:

309 (a) Bodily injury: \$250,000 ~~\$100,000~~ each person and  
310 \$500,000 ~~\$300,000~~ each occurrence; and property damage: \$250,000  
311 ~~\$50,000~~ each occurrence and \$500,000 ~~\$100,000~~ in the aggregate;  
312 or

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

315 Section 4. Section 482.072, Florida Statutes, is created to  
316 read:

317 482.072 Pest control service centers.—

318 (1) The department may issue a license to a qualified  
319 business to operate a pest control service center, to solicit

580-04107-09

2009868c2

320 pest control business, or to provide services to customers for  
321 one or more business locations licensed under s. 482.071. A  
322 person may not operate a centralized service center for a pest  
323 control business that is not licensed by the department.

324 (2) (a) Before operating a pest control service center, and  
325 biennially thereafter, on or before an anniversary date set by  
326 the department for the licensed pest control service center  
327 location, the pest control business must apply to the department  
328 for a license under this chapter, or a renewal thereof, for each  
329 pest control service center location. An application must be  
330 submitted in the format prescribed by the department.

331 (b) The department shall establish a fee for the issuance  
332 of a pest control service center license of at least \$500, but  
333 not more than \$1,000, and a fee for the renewal of a license of  
334 at least \$500, but not more than \$1,000; however, until rules  
335 setting the fees are adopted by the department, the initial  
336 license and renewal fees are each set at \$500. The department  
337 shall establish a grace period, not to exceed 30 calendar days  
338 after a license's anniversary renewal date. The department shall  
339 assess a late renewal fee of \$150, in addition to the renewal  
340 fee, to a business that renews its license after the grace  
341 period.

342 (c) A license automatically expires 60 calendar days after  
343 the anniversary renewal date unless the license is renewed  
344 before that date. Once a license expires, it may be reinstated  
345 only upon reapplication and payment of the license fee and late  
346 renewal fee.

347 (d) A license automatically expires when a licensee changes  
348 its pest control service center business location address. The

580-04107-09

2009868c2

349 department shall issue a new license upon payment of a \$250 fee.  
350 The new license automatically expires 60 calendar days after the  
351 anniversary renewal date of the former license unless the  
352 license is renewed before that date.

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

357 (f) The department may deny the issuance of a pest control  
358 service center license, or refuse to renew a license, if the  
359 department finds that the applicant or licensee, or any of its  
360 directors, officers, owners, or general partners, are or were  
361 directors, officers, owners, or general partners of a pest  
362 control business described in s. 482.071(2)(g) or violated a  
363 rule adopted under s. 482.071(2)(f).

364 (g) Section 482.091 does not apply to a person who solicits  
365 pest control services or provides customer service in a licensed  
366 pest control service center unless the person performs the pest  
367 control work described in s. 482.021(21)(a)-(d), executes a pest  
368 control contract, or accepts remuneration for such work.

369 (3)(a) The department shall adopt rules establishing  
370 requirements and procedures for recordkeeping and monitoring of  
371 pest control service center operations to ensure compliance with  
372 this chapter and rules adopted under this chapter.

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

376 1. A pest control service center licensee may be subject to  
377 disciplinary action under s. 482.161 for a violation of this

580-04107-09

2009868c2

378 chapter or a rule adopted under this chapter committed by an  
379 employee of the service center.

380 2. A pest control business licensee may be subject to  
381 disciplinary action under s. 482.161 for a violation committed  
382 by an employee of the service center if the business licensee  
383 benefits from the violation.

384 Section 5. Section 482.152, Florida Statutes, is amended to  
385 read:

386 482.152 Duties of certified operator in charge of pest  
387 control activities of licensee.—A certified operator in charge  
388 of the pest control activities of a licensee shall have her or  
389 his primary occupation with the licensee and shall be a full-  
390 time employee of the licensee. The, and her or his principal  
391 duties of the certified operator in charge duty shall include:

392 (1) The Responsibility for the personal supervision of, and  
393 participation in, the pest control activities of at the business  
394 location of the licensee. This chapter does not prevent a  
395 certified operator in charge from performing duties at other  
396 business locations owned by the licensee if:

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

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

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

404 (2) ~~(1)~~ The Selection of proper and correct chemicals for  
405 the particular pest control work performed.

406 (3) ~~(2)~~ The Safe and proper use of the pesticides used.

580-04107-09

2009868c2

407       ~~(4)(3)~~ The Correct concentration and formulation of  
408 pesticides used in all pest control work performed.

409       ~~(5)(4)~~ The Training of personnel in the proper and  
410 acceptable methods of pest control.

411       ~~(6)(5)~~ The Control measures and procedures used.

412       ~~(7)(6)~~ The Notification of the department of any accidental  
413 human poisoning or death connected with pest control work  
414 performed on a job she or he is supervising, within 24 hours  
415 after she or he has knowledge of the poisoning or death.

416       Section 6. Section 482.157, Florida Statutes, is created to  
417 read:

418       482.157 Limited certification for commercial wildlife  
419 management personnel.-

420       (1) The department shall establish a limited certification  
421 category for individual commercial wildlife management personnel  
422 which authorizes the personnel to use nonchemical methods for  
423 controlling pest birds or rodents, including, but not limited  
424 to, the use of traps, glue boards, mechanical or electronic  
425 devices, or exclusionary techniques.

426       (2) A person seeking limited certification under this  
427 section must pass an examination administered by the department.  
428 An application for examination must be accompanied by an  
429 examination fee set by rule of the department of at least \$150  
430 but not to exceed \$300. The department shall provide the  
431 appropriate reference materials for the examination and make the  
432 examination readily available to applicants at least quarterly  
433 or as often as necessary in each county. Before the department  
434 issues a limited certification under this section, the person  
435 applying for certification must furnish proof that he or she

580-04107-09

2009868c2

436 holds a certificate of insurance stating that his or her  
437 employer meets the requirements for minimum financial  
438 responsibility in s. 482.071(4).

439 (3) An application for recertification under this section  
440 must be submitted biennially and must be accompanied by a  
441 recertification fee set by rule of the department of at least  
442 \$150 but not to exceed \$300. The application must also be  
443 accompanied by proof that:

444 (a) The applicant completed 4 classroom hours of acceptable  
445 continuing education.

446 (b) The applicant holds a certificate of insurance stating  
447 that his or her employer meets the requirements for minimum  
448 financial responsibility in s. 482.071(4).

449 (4) The department shall establish a grace period, not to  
450 exceed 30 calendar days after a biennial date established by the  
451 department on which recertification is due. The department shall  
452 assess a late charge of \$50, in addition to the recertification  
453 fee, to commercial wildlife management personnel who are  
454 recertified after the grace period.

455 (5) A limited certification automatically expires 180  
456 calendar days after the biennial date on which recertification  
457 is due unless the commercial wildlife personnel are recertified  
458 before the certification expires. Once a certification expires,  
459 certification may be issued only upon successful reexamination  
460 and payment of the examination fees.

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

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



580-04107-09

2009868c2

465 (b) Operation of a pest control business.

466 (c) Supervision of a certified person.

467 Section 7. Section 482.163, Florida Statutes, is amended to  
468 read:

469 482.163 Responsibility for pest control activities of  
470 employee.—Proper performance of pest control activities by a  
471 pest control business employee is the responsibility not only of  
472 the employee but also of the licensee and the certified operator  
473 in charge, and the licensee and certified operator in charge may  
474 be subject to disciplinary action under ~~disciplined pursuant to~~  
475 ~~the provisions of s. 482.161 for the pest control activities of~~  
476 an employee unless the employee acts outside of the course and  
477 scope of his or her employment or the employee disobeys employer  
478 policies that the licensee and certified operator in charge  
479 regularly and consistently enforce. The department will notify  
480 the licensee and certified operator in charge so that corrective  
481 action can be taken when an administrative action is initiated  
482 against an employee of the licensee as a result of an inspection  
483 or investigation. ~~A licensee may not automatically be considered~~  
484 ~~responsible for violations made by an employee. However, the~~  
485 ~~licensee may not knowingly encourage, aid, or abet violations of~~  
486 ~~this chapter.~~

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

489 482.226 Wood-destroying organism inspection report; notice  
490 of inspection or treatment; financial responsibility.—

491 (6) Any licensee that performs wood-destroying organism  
492 inspections in accordance with subsection (1) must meet minimum  
493 financial responsibility in the form of errors and omissions

580-04107-09

2009868c2

494 (professional liability) insurance coverage or bond in an amount  
495 no less than \$250,000 ~~\$50,000~~ in the aggregate and ~~\$25,000 per~~  
496 ~~occurrence~~, or demonstrate that the licensee has equity or net  
497 worth of no less than \$500,000 ~~\$100,000~~ as determined by  
498 generally accepted accounting principles substantiated by a  
499 certified public accountant's review or certified audit. The  
500 licensee must show proof of meeting this requirement at the time  
501 of license application or renewal thereof.

502 Section 9. Subsection (1) of section 493.6102, Florida  
503 Statutes, is amended to read:

504 493.6102 Inapplicability of this chapter.—This chapter  
505 shall not apply to:

506 (1) Any individual who is an "officer" as defined in s.  
507 943.10(14),  or is a law enforcement officer of the United States  
508 Government, while the ~~such~~ local, state, or federal officer is  
509 engaged in her or his official duties or, if approved by the  
510 officer's supervisors, when performing off-duty activities as a  
511 security officer ~~activities approved by her or his superiors.~~

512 Section 10. Section 493.6105, Florida Statutes, is amended  
513 to read:

514 493.6105 Initial application for license.—

515 (1) Each individual, partner, or principal officer in a  
516 corporation, shall file with the department a complete  
517 application accompanied by an application fee not to exceed \$60,  
518 except that the applicant for a Class "D" or Class "G" license  
519 shall not be required to submit an application fee. The  
520 application fee shall not be refundable.

521 (a) The application submitted by any individual, partner,  
522 or corporate officer shall be approved by the department prior

580-04107-09

2009868c2

523 to that individual, partner, or corporate officer assuming his  
524 or her duties.

525 (b) Individuals who invest in the ownership of a licensed  
526 agency, but do not participate in, direct, or control the  
527 operations of the agency shall not be required to file an  
528 application.

529 (2) Each application shall be signed and verified by the  
530 individual under oath as provided in s. 95.525 ~~and shall be~~  
531 ~~notarized~~.

532 (3) The application shall contain the following information  
533 concerning the individual signing same:

534 (a) Name and any aliases.

535 (b) Age and date of birth.

536 (c) Place of birth.

537 (d) Social security number or alien registration number,  
538 whichever is applicable.

539 (e) Present residence address ~~and his or her residence~~  
540 ~~addresses within the 5 years immediately preceding the~~  
541 ~~submission of the application.~~

542 ~~(f) Occupations held presently and within the 5 years~~  
543 ~~immediately preceding the submission of the application.~~

544 ~~(f)-(g)~~ A statement of all criminal convictions, findings of  
545 guilt, and pleas of guilty or nolo contendere, regardless of  
546 adjudication of guilt.

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

549 (h) A statement whether he or she has ever been adjudicated  
550 incompetent under chapter 744.

551 (i) A statement whether he or she has ever been committed

580-04107-09

2009868c2

552 to a mental institution under chapter 394.

553 (j) A full set of fingerprints on a card provided by the  
554 department and a fingerprint fee to be established by rule of  
555 the department based upon costs determined by state and federal  
556 agency charges and department processing costs. An applicant who  
557 has, within the immediately preceding 6 months, submitted a  
558 fingerprint card and fee for licensing purposes under this  
559 chapter shall not be required to submit another fingerprint card  
560 or fee.

561 (k) A personal inquiry waiver which allows the department  
562 to conduct necessary investigations to satisfy the requirements  
563 of this chapter.

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

568 ~~(4) In addition to the application requirements outlined in~~  
569 ~~subsection (3), the applicant for a Class "C," Class "CC," Class~~  
570 ~~"E," Class "EE," or Class "G" license shall submit two color~~  
571 ~~photographs taken within the 6 months immediately preceding the~~  
572 ~~submission of the application, which meet specifications~~  
573 ~~prescribed by rule of the department. All other applicants shall~~  
574 ~~submit one photograph taken within the 6 months immediately~~  
575 ~~preceding the submission of the application.~~

576 (4)~~(5)~~ In addition to the application requirements outlined  
577 under subsection (3), the applicant for a Class "C," Class "E,"  
578 Class "M," Class "MA," Class "MB," or Class "MR" license shall  
579 include a statement on a form provided by the department of the  
580 experience which he or she believes will qualify him or her for

580-04107-09

2009868c2

581 such license.

582 ~~(5)-(6)~~ In addition to the requirements outlined in  
583 subsection (3), an applicant for a Class "G" license shall  
584 satisfy minimum training criteria for firearms established by  
585 rule of the department, which training criteria shall include,  
586 but is not limited to, 28 hours of range and classroom training  
587 taught and administered by a Class "K" licensee; however, no  
588 more than 8 hours of such training shall consist of range  
589 training. If the applicant can show proof that he or she is an  
590 active law enforcement officer currently certified under the  
591 Criminal Justice Standards and Training Commission or has  
592 completed the training required for that certification within  
593 the last 12 months, or if the applicant submits one of the  
594 certificates specified in paragraph ~~(6)(a)~~ ~~(7)(a)~~, the  
595 department may waive the foregoing firearms training  
596 requirement.

597 ~~(6)(7)~~ In addition to the requirements under subsection  
598 (3), an applicant for a Class "K" license shall:

599 (a) Submit one of the following certificates:

600 1. The Florida Criminal Justice Standards and Training  
601 Commission ~~Firearms~~ Instructor's Certificate and confirmation by  
602 the commission that the applicant is authorized to provide  
603 firearms instruction.

604 2. The National Rifle Association Law Enforcement ~~Police~~  
605 Firearms Instructor's Certificate.

606 ~~3. The National Rifle Association Security Firearms~~  
607 ~~Instructor's Certificate.~~

608 ~~3.4.~~ A firearms instructor's training certificate issued by  
609 any branch of the United States Armed Forces, from a federal law

580-04107-09

2009868c2

610 enforcement academy or agency, ~~state, county, or municipal~~  
611 ~~police~~ academy in this state recognized as such by the Criminal  
612 Justice Standards and Training Commission ~~or by the Department~~  
613 ~~of Education~~.

614 (b) Pay the fee for and pass an examination administered by  
615 the department which shall be based upon, but is not necessarily  
616 limited to, a firearms instruction manual provided by the  
617 department.

618 (7) ~~(8)~~ In addition to the application requirements for  
619 individuals, partners, or officers outlined under subsection  
620 (3), the application for an agency license shall contain the  
621 following information:

622 (a) The proposed name under which the agency intends to  
623 operate.

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

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

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

631 (8) ~~(9)~~ Upon submission of a complete application, a Class  
632 "CC," Class "C," Class "D," Class "EE," Class "E," Class "M,"  
633 Class "MA," Class "MB," or Class "MR" applicant may commence  
634 employment or appropriate duties for a licensed agency or branch  
635 office. However, the Class "C" or Class "E" applicant must work  
636 under the direction and control of a sponsoring licensee while  
637 his or her application is being processed. If the department  
638 denies application for licensure, the employment of the

580-04107-09

2009868c2

639 applicant must be terminated immediately, unless he or she  
640 performs only unregulated duties.

641 Section 11. Paragraph (f) of subsection (1) and paragraph  
642 (a) of subsection (2) of section 493.6106, Florida Statutes, are  
643 amended, and paragraph (g) is added to subsection (1) of that  
644 section, to read:

645 493.6106 License requirements; posting.—

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

647 (f) Be a citizen or permanent legal resident alien of the  
648 United States or have appropriate ~~been granted~~ authorization  
649 issued to seek employment in this country by the United States  
650 ~~Bureau of~~ Citizenship and Immigration Services (USCIS) of the  
651 United States Department of Homeland Security.

652 1. An applicant for a Class "C," Class "CC," Class "D,"  
653 Class "DI," Class "E," Class "EE," Class "M," Class "MA," Class  
654 "MB," Class "MR," or Class "RI" license who is not a United  
655 States citizen must submit proof of current employment  
656 authorization issued by the United States Citizenship and  
657 Immigration Services or proof that she or he is deemed a  
658 permanent legal resident alien by the USCIS.

659 2. An applicant for a Class "G" or Class "K" license who is  
660 not a United States citizen must submit proof that she or he is  
661 deemed a permanent legal resident alien by the United States  
662 Citizenship and Immigration Services, along with additional  
663 documentation establishing that she or he has resided in the  
664 state of residence shown on the application for at least 90  
665 consecutive days before the date that the application is  
666 submitted.

667 3. An applicant for an agency or school license who is not

580-04107-09

2009868c2

668 a United States citizen or permanent legal resident alien must  
669 submit documentation issued by the United States Citizenship and  
670 Immigration Services stating that she or he is lawfully in the  
671 United States and is authorized to own and operate the type of  
672 agency or school for which she or he is applying. An employment  
673 authorization card issued by the United States Citizenship and  
674 Immigration Services is not sufficient documentation.

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

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

682 (a) If an agency or branch office desires to change the  
683 physical location of the business, as it appears on the ~~agency~~  
684 license, the department must be notified within 10 days of the  
685 change, and, except upon renewal, the fee prescribed in s.  
686 493.6107 must be submitted for each license requiring revision.  
687 Each license requiring revision must be returned with such  
688 notification.

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

691 493.6107 Fees.—

692 (3) The fees set forth in this section must be paid by  
693 ~~certified check or money order or, at the discretion of the~~  
694 ~~department, by agency check~~ at the time the application is  
695 approved, except that the applicant for a Class "G" or Class "M"  
696 license must pay the license fee at the time the application is



580-04107-09

2009868c2

697 made. If a license is revoked or denied or if the application is  
698 withdrawn, the license fee shall not be refunded.

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

701 493.6108 Investigation of applicants by Department of  
702 Agriculture and Consumer Services.—

703 (1) Except as otherwise provided, prior to the issuance of  
704 a license under this chapter, the department shall make an  
705 investigation of the applicant for a license. The investigation  
706 shall include:

707 (a)1. An examination of fingerprint records and police  
708 records. When a criminal history analysis of any applicant under  
709 this chapter is performed by means of fingerprint card  
710 identification, the time limitations prescribed by s. 120.60(1)  
711 shall be tolled during the time the applicant's fingerprint card  
712 is under review by the Department of Law Enforcement or the  
713 United States Department of Justice, Federal Bureau of  
714 Investigation.

715 2. If a legible set of fingerprints, as determined by the  
716 Department of Law Enforcement or the Federal Bureau of  
717 Investigation, cannot be obtained after two attempts, the  
718 Department of Agriculture and Consumer Services may determine  
719 the applicant's eligibility based upon a criminal history record  
720 check under the applicant's name conducted by the Department of  
721 Law Enforcement if the ~~and the Federal Bureau of Investigation.~~  
722 ~~A set of fingerprints~~ are taken by a law enforcement agency or  
723 the department and the applicant submits a written statement  
724 signed by the fingerprint technician or a licensed physician  
725 stating that there is a physical condition that precludes

580-04107-09

2009868c2

726 obtaining a legible set of fingerprints or that the fingerprints  
727 taken are the best that can be obtained ~~is sufficient to meet~~  
728 ~~this requirement.~~

729 (3) The department shall also investigate the mental  
730 history and current mental and emotional fitness of any Class  
731 "G" or Class "K" applicant, and may deny a Class "G" or Class  
732 "K" license to anyone who has a history of mental illness or  
733 drug or alcohol abuse.

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

736 493.6111 License; contents; identification card.—

737 (4) Notwithstanding the existence of a valid Florida  
738 corporate registration, an ~~ne~~ agency or school licensee may not  
739 conduct activities regulated under this chapter under any  
740 fictitious name without prior written authorization from the  
741 department to use that name in the conduct of activities  
742 regulated under this chapter. The department may not authorize  
743 the use of a name which is so similar to that of a public  
744 officer or agency, or of that used by another licensee, that the  
745 public may be confused or misled thereby. The authorization for  
746 the use of a fictitious name shall require, as a condition  
747 precedent to the use of such name, the filing of a certificate  
748 of engaging in business under a fictitious name under s. 865.09.  
749 A ~~No~~ licensee may not ~~shall be permitted to~~ conduct business  
750 under more than one fictitious name except as separately  
751 licensed nor shall the license be valid to protect any licensee  
752 who is engaged in ~~the~~ business under any name other than that  
753 specified in the license. An agency desiring to change its  
754 licensed name shall notify the department and, except upon

580-04107-09

2009868c2

755 renewal, pay a fee not to exceed \$30 for each license requiring  
756 revision including those of all licensed employees except Class  
757 "D" or Class "G" licensees. Upon the return of such licenses to  
758 the department, revised licenses shall be provided.

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

761 493.6113 Renewal application for licensure.—

762 (2) At least ~~No less than~~ 90 days before ~~prior to~~ the  
763 expiration date of the license, the department shall mail a  
764 written notice to the last known mailing ~~residence~~ address of  
765 the licensee ~~for individual licensees and to the last known~~  
766 ~~agency address for agencies.~~

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

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

775 Section 16. Subsection (8), paragraph (d) of subsection  
776 (12), and subsection (16) of section 493.6115, Florida Statutes,  
777 are amended to read:

778 493.6115 Weapons and firearms.—

779 (8) A Class "G" applicant must satisfy the minimum training  
780 criteria as set forth in s. 493.6105 (5) ~~(6)~~ and as established by  
781 rule of the department.

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

580-04107-09

2009868c2

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

787 (16) If the criminal history record check program  
788 referenced in s. 493.6108(1)(a)1. ~~493.6121(6)~~ is inoperable, the  
789 department may issue a temporary "G" license on a case-by-case  
790 basis, provided that the applicant has met all statutory  
791 requirements for the issuance of a temporary "G" license as  
792 specified in subsection (12), excepting the criminal history  
793 record check stipulated there; provided, that the department  
794 requires that the licensed employer of the applicant conduct a  
795 criminal history record check of the applicant pursuant to  
796 standards set forth in rule by the department, and provide to  
797 the department an affidavit containing such information and  
798 statements as required by the department, including a statement  
799 that the criminal history record check did not indicate the  
800 existence of any criminal history that would prohibit licensure.  
801 Failure to properly conduct such a check, or knowingly providing  
802 incorrect or misleading information or statements in the  
803 affidavit shall constitute grounds for disciplinary action  
804 against the licensed agency, including revocation of license.

805 Section 17. Present paragraph (u) of subsection (1) of  
806 section 493.6118, Florida Statutes, is redesignated as paragraph  
807 (v), and a new paragraph (u) is added to that subsection, to  
808 read:

809 493.6118 Grounds for disciplinary action.—

810 (1) The following constitute grounds for which disciplinary  
811 action specified in subsection (2) may be taken by the  
812 department against any licensee, agency, or applicant regulated

580-04107-09

2009868c2

813 by this chapter, or any unlicensed person engaged in activities  
814 regulated under this chapter.

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

818 (v)~~(u)~~ In addition to the grounds for disciplinary action  
819 prescribed in paragraphs (a)-(t), Class "R" recovery agencies,  
820 Class "E" recovery agents, and Class "EE" recovery agent interns  
821 are prohibited from committing the following acts:

822 1. Recovering a motor vehicle, mobile home, motorboat,  
823 aircraft, personal watercraft, all-terrain vehicle, farm  
824 equipment, or industrial equipment that has been sold under a  
825 conditional sales agreement or under the terms of a chattel  
826 mortgage before authorization has been received from the legal  
827 owner or mortgagee.

828 2. Charging for expenses not actually incurred in  
829 connection with the recovery, transportation, storage, or  
830 disposal of repossessed property or personal property obtained  
831 in a repossession.

832 3. Using any repossessed property or personal property  
833 obtained in a repossession for the personal benefit of a  
834 licensee or an officer, director, partner, manager, or employee  
835 of a licensee.

836 4. Selling property recovered under the provisions of this  
837 chapter, except with written authorization from the legal owner  
838 or the mortgagee thereof.

839 5. Failing to notify the police or sheriff's department of  
840 the jurisdiction in which the repossessed property is recovered  
841 within 2 hours after recovery.

580-04107-09

2009868c2

842 6. Failing to remit moneys collected in lieu of recovery of  
843 a motor vehicle, mobile home, motorboat, aircraft, personal  
844 watercraft, all-terrain vehicle, farm equipment, or industrial  
845 equipment to the client within 10 working days.

846 7. Failing to deliver to the client a negotiable instrument  
847 that is payable to the client, within 10 working days after  
848 receipt of such instrument.

849 8. Falsifying, altering, or failing to maintain any  
850 required inventory or records regarding disposal of personal  
851 property contained in or on repossessed property pursuant to s.  
852 493.6404(1).

853 9. Carrying any weapon or firearm when he or she is on  
854 private property and performing duties under his or her license  
855 whether or not he or she is licensed pursuant to s. 790.06.

856 10. Soliciting from the legal owner the recovery of  
857 property subject to repossession after such property has been  
858 seen or located on public or private property if the amount  
859 charged or requested for such recovery is more than the amount  
860 normally charged for such a recovery.

861 11. Wearing, presenting, or displaying a badge in the  
862 course of performing a repossession regulated by this chapter.

863 Section 18. Present subsections (7) and (8) of section  
864 493.6121, Florida Statutes, are renumbered as subsections (6)  
865 and (7), respectively, and subsection (6) of that section is  
866 amended, to read:

867 493.6121 Enforcement; investigation.-

868 ~~(6) The department shall be provided access to the program~~  
869 ~~that is operated by the Department of Law Enforcement, pursuant~~  
870 ~~to s. 790.065, for providing criminal history record information~~

580-04107-09

2009868c2

871 ~~to licensed gun dealers, manufacturers, and exporters. The~~  
872 ~~department may make inquiries, and shall receive responses in~~  
873 ~~the same fashion as provided under s. 790.065. The department~~  
874 ~~shall be responsible for payment to the Department of Law~~  
875 ~~Enforcement of the same fees as charged to others afforded~~  
876 ~~access to the program.~~

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

879 493.6202 Fees.—

880 (3) The fees set forth in this section must be paid by  
881 ~~certified check or money order or, at the discretion of the~~  
882 ~~department, by agency check~~ at the time the application is  
883 approved, except that the applicant for a Class "G," Class "C,"  
884 Class "CC," Class "M," or Class "MA" license must pay the  
885 license fee at the time the application is made. If a license is  
886 revoked or denied or if the application is withdrawn, the  
887 license fee shall not be refunded.

888 Section 20. Subsections (2), (4), and (6) of section  
889 493.6203, Florida Statutes, are amended to read:

890 493.6203 License requirements.—In addition to the license  
891 requirements set forth elsewhere in this chapter, each  
892 individual or agency shall comply with the following additional  
893 requirements:

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

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

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

580-04107-09

2009868c2

- 900 (c) Any combination of paragraphs (a) and (b);
- 901 (d) Experience described in paragraph (a) for 1 year and
- 902 experience described in paragraph (e) for 1 year;
- 903 (e) No more than 1 year using:
- 904 1. College coursework related to criminal justice,
- 905 criminology, or law enforcement administration; or
- 906 2. Successfully completed law enforcement-related training
- 907 received from any federal, state, county, or municipal agency;
- 908 or
- 909 (f) Experience described in paragraph (a) for 1 year and
- 910 work in a managerial or supervisory capacity for 1 year.

911

912 However, experience in performing bodyguard services is not

913 creditable toward the requirements of this subsection.

914 (4) An applicant for a Class "C" license shall have 2 years

915 of lawfully gained, verifiable, full-time experience, or

916 training in one, or a combination of more than one, of the

917 following:

918 (a) Private investigative work or related fields of work

919 that provided equivalent experience or training.

920 (b) College coursework related to criminal justice,

921 criminology, or law enforcement administration, or successful

922 completion of any law enforcement-related training received from

923 any federal, state, county, or municipal agency, except that no

924 more than 1 year may be used from this category.

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

926

927 However, experience in performing bodyguard services is not

928 creditable toward the requirements of this subsection.



580-04107-09

2009868c2

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

932 (b) Effective July 1, 2009 ~~September 1, 2008~~, before  
933 submission of an application to the department, the an applicant  
934 for a Class "CC" license must have completed a minimum of 40 at  
935 least 24 hours of professional training a 40-hour course  
936 pertaining to general investigative techniques and this chapter,  
937 which course is offered by a state university or by a school,  
938 community college, college, or university under the purview of  
939 the Department of Education, and the applicant must pass an  
940 examination. The training must be provided in two parts, one 24-  
941 hour course and one 16-hour course. The certificate evidencing  
942 satisfactory completion of the 40 ~~at least 24~~ hours of  
943 professional training a 40-hour course must be submitted with  
944 the application for a Class "CC" license. ~~The remaining 16 hours~~  
945 ~~must be completed and an examination passed within 180 days. If~~  
946 ~~documentation of completion of the required training is not~~  
947 ~~submitted within the specified timeframe, the individual's~~  
948 ~~license is automatically suspended or his or her authority to~~  
949 ~~work as a Class "CC" pursuant to s. 493.6105(9) is rescinded~~  
950 ~~until such time as proof of certificate of completion is~~  
951 ~~provided to the department.~~ The training course specified in  
952 this paragraph may be provided by face-to-face presentation,  
953 online technology, or a home study course in accordance with  
954 rules and procedures of the Department of Education. The  
955 administrator of the examination must verify the identity of  
956 each applicant taking the examination.

957 1. Upon an applicant's successful completion of each part

580-04107-09

2009868c2

958 of the approved training ~~course~~ and passage of any required  
959 examination, the school, community college, college, or  
960 university shall issue a certificate of completion to the  
961 applicant. The certificates must be on a form established by  
962 rule of the department.

963 2. The department shall establish by rule the general  
964 content of the professional training ~~course~~ and the examination  
965 criteria.

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

969 (c) An individual who submits an application for a Class  
970 "CC" license on or after September 1, 2008, through June 30,  
971 2009, who has not completed the 16-hour course must submit proof  
972 of successful completion of the course within 180 days after the  
973 date the application is submitted. If documentation of  
974 completion of the required training is not submitted by that  
975 date, the individual's license is automatically suspended until  
976 proof of the required training is submitted to the department.  
977 An individual licensed on or before August 31, 2008, is not  
978 required to complete additional training hours in order to renew  
979 an active license beyond the required total amount of training,  
980 and within the timeframe, in effect at the time he or she was  
981 licensed.

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

984 493.6302 Fees.—

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

580-04107-09

2009868c2

987 ~~department, by agency check~~ at the time the application is  
988 approved, except that the applicant for a Class "D," Class "G,"  
989 Class "M," or Class "MB" license must pay the license fee at the  
990 time the application is made. If a license is revoked or denied  
991 or if the application is withdrawn, the license fee shall not be  
992 refunded.

993 Section 22. Subsection (4) of section 493.6303, Florida  
994 Statutes, is amended to read:

995 493.6303 License requirements.—In addition to the license  
996 requirements set forth elsewhere in this chapter, each  
997 individual or agency shall comply with the following additional  
998 requirements:

999 (4) (a) Effective July 1, 2009, an applicant for a Class "D"  
1000 license must submit proof of successful completion of ~~complete~~ a  
1001 minimum of 40 hours of professional training at a school or  
1002 training facility licensed by the department. The training must  
1003 be provided in two parts, one 24-hour course and one 16-hour  
1004 course. The department shall by rule establish the general  
1005 content and number of hours of each subject area to be taught.

1006 (b) An individual who submits an application for a Class  
1007 "D" license on or after January 1, 2007, through June 30, 2009,  
1008 who has not completed the 16-hour course must submit proof of  
1009 successful completion of the course within 180 days after the  
1010 date the application is submitted. If documentation of  
1011 completion of the required training is not submitted by that  
1012 date, the individual's license is automatically suspended until  
1013 proof of the required training is submitted to the department.  
1014 This section does not require a person licensed before January  
1015 1, 2007, to complete additional training hours in order to renew

580-04107-09

2009868c2

1016 an active license beyond the required total amount of training  
1017 within the timeframe prescribed by law at the time he or she was  
1018 licensed. An applicant may fulfill the training requirement  
1019 prescribed in paragraph (a) by submitting proof of:

1020 1. Successful completion of the total number of required  
1021 hours of training before initial application for a Class "D"  
1022 license; or

1023 2. Successful completion of 24 hours of training before  
1024 initial application for a Class "D" license and successful  
1025 completion of the remaining 16 hours of training within 180 days  
1026 after the date that the application is submitted. If  
1027 documentation of completion of the required training is not  
1028 submitted within the specified timeframe, the individual's  
1029 license is automatically suspended until such time as proof of  
1030 the required training is provided to the department.

1031 (c) An individual ~~However, any person~~ whose license is  
1032 suspended or has been revoked, suspended pursuant to paragraph  
1033 (b) subparagraph 2., or is expired for at least 1 year, or  
1034 ~~longer~~ is considered, upon reapplication for a license, an  
1035 initial applicant and must submit proof of successful completion  
1036 of 40 hours of professional training at a school or training  
1037 facility licensed by the department as provided ~~prescribed~~ in  
1038 paragraph (a) before a license is will be issued. Any person  
1039 ~~whose license was issued before January 1, 2007, and whose~~  
1040 ~~license has been expired for less than 1 year must, upon~~  
1041 ~~reapplication for a license, submit documentation of completion~~  
1042 ~~of the total number of hours of training prescribed by law at~~  
1043 ~~the time her or his initial license was issued before another~~  
1044 ~~license will be issued. This subsection does not require an~~

580-04107-09

2009868c2

1045 ~~individual licensed before January 1, 2007, to complete~~  
1046 ~~additional training hours in order to renew an active license,~~  
1047 ~~beyond the required total amount of training within the~~  
1048 ~~timeframe prescribed by law at the time she or he was licensed.~~

1049 Section 23. Subsection (2) of section 493.6304, Florida  
1050 Statutes, is amended to read:

1051 493.6304 Security officer school or training facility.—

1052 (2) The application shall be signed and verified by the  
1053 applicant under oath as provided in s. 92.525 ~~notarized~~ and  
1054 shall contain, at a minimum, the following information:

1055 (a) The name and address of the school or training facility  
1056 and, if the applicant is an individual, her or his name,  
1057 address, and social security or alien registration number.

1058 (b) The street address of the place at which the training  
1059 is to be conducted.

1060 (c) A copy of the training curriculum and final examination  
1061 to be administered.

1062 Section 24. Subsections (7) and (8) of section 493.6401,  
1063 Florida Statutes, are amended to read:

1064 493.6401 Classes of licenses.—

1065 (7) Any person who operates a recovery agent ~~repossessor~~  
1066 school or training facility or who conducts an Internet-based  
1067 training course or a correspondence training course must have a  
1068 Class "RS" license.

1069 (8) Any individual who teaches or instructs at a Class "RS"  
1070 recovery agent ~~repossessor~~ school or training facility shall  
1071 have a Class "RI" license.

1072 Section 25. Paragraphs (f) and (g) of subsection (1) and  
1073 subsection (3) of section 493.6402, Florida Statutes, are

580-04107-09

2009868c2

1074 amended to read:

1075 493.6402 Fees.—

1076 (1) The department shall establish by rule biennial license  
1077 fees which shall not exceed the following:

1078 (f) Class "RS" license—recovery agent ~~repossessor~~ school or  
1079 training facility: \$60.

1080 (g) Class "RI" license—recovery agent ~~repossessor~~ school or  
1081 training facility instructor: \$60.

1082 (3) The fees set forth in this section must be paid by  
1083 ~~certified check or money order, or, at the discretion of the~~  
1084 ~~department, by agency check~~ at the time the application is  
1085 approved, except that the applicant for a Class "E," Class "EE,"  
1086 or Class "MR" license must pay the license fee at the time the  
1087 application is made. If a license is revoked or denied, or if an  
1088 application is withdrawn, the license fee shall not be refunded.

1089 Section 26. Subsections (1) and (2) of section 493.6406,  
1090 Florida Statutes, are amended to read:

1091 493.6406 Recovery agent ~~Repossession services~~ school or  
1092 training facility.—

1093 (1) Any school, training facility, or instructor who offers  
1094 the training outlined in s. 493.6403(2) for Class "E" or Class  
1095 "EE" applicants shall, before licensure of such school, training  
1096 facility, or instructor, file with the department an application  
1097 accompanied by an application fee in an amount to be determined  
1098 by rule, not to exceed \$60. The fee shall not be refundable.  
1099 This training may be offered as face-to-face training, Internet-  
1100 based training, or correspondence training.

1101 (2) The application shall be signed and verified by the  
1102 applicant under oath as provided in s. 92.525 ~~notarized~~ and

580-04107-09

2009868c2

1103 shall contain, at a minimum, the following information:

1104 (a) The name and address of the school or training facility  
1105 and, if the applicant is an individual, his or her name,  
1106 address, and social security or alien registration number.

1107 (b) The street address of the place at which the training  
1108 is to be conducted or the street address of the Class "RS"  
1109 school offering Internet-based or correspondence training.

1110 (c) A copy of the training curriculum and final examination  
1111 to be administered.

1112 Section 27. Paragraph (n) of subsection (1) of section  
1113 500.03, Florida Statutes, is amended to read:

1114 500.03 Definitions; construction; applicability.—

1115 (1) For the purpose of this chapter, the term:

1116 (n) "Food establishment" means any factory, food outlet, or  
1117 any other facility manufacturing, processing, packing, holding,  
1118 or preparing food, ~~or~~ or selling food at wholesale or retail. The  
1119 term does not include any business or activity that is regulated  
1120 under chapter 509 or chapter 601. The term includes tomato  
1121 packinghouses and repackers but does not include any other  
1122 establishments that pack fruits and vegetables in their raw or  
1123 natural states, including those fruits or vegetables that are  
1124 washed, colored, or otherwise treated in their unpeeled, natural  
1125 form before they are marketed.

1126 Section 28. Section 500.70, Florida Statutes, is created to  
1127 read:

1128 500.70 Tomato food safety standards; inspections;  
1129 penalties; tomato good agricultural practices; tomato best  
1130 management practices.—

1131 (1) As used in this section, the term:

580-04107-09

2009868c2

1132       (a) "Field packing" means the packing of tomatoes on a  
1133 tomato farm or in a tomato greenhouse into containers for sale  
1134 for human consumption without transporting the tomatoes to a  
1135 packinghouse.

1136       (b) "Packing" or "repacking" means the packing of tomatoes  
1137 into containers for sale for human consumption. The term  
1138 includes the sorting or separating of tomatoes into grades and  
1139 sizes. The term also includes field packing.

1140       (c) "Producing" means the planting, growing, or cultivating  
1141 of tomatoes on a tomato farm or in a tomato greenhouse for sale  
1142 for human consumption.

1143       (2) The department may adopt rules establishing food safety  
1144 standards to safeguard the public health and promote the public  
1145 welfare by protecting the consuming public from injury caused by  
1146 the adulteration or the microbiological, chemical, or  
1147 radiological contamination of tomatoes. The rules must be based  
1148 on federal requirements, available scientific research,  
1149 generally accepted industry practices, and recommendations of  
1150 food safety professionals. The rules shall apply to the  
1151 producing, harvesting, packing, and repacking of tomatoes for  
1152 sale for human consumption by a tomato farm, tomato greenhouse,  
1153 or tomato packinghouse or repacker in this state. The rules may  
1154 include, but are not limited to, standards for:

1155       (a) Registration with the department of a person who  
1156 produces, harvests, packs, or repacks tomatoes in this state who  
1157 does not hold a food permit issued under s. 500.12.

1158       (b) Proximity of domestic animals and livestock to the  
1159 production areas for tomatoes.

1160       (c) Food safety related use of water for irrigation during



580-04107-09

2009868c2

1161 production and washing of tomatoes after harvest.

1162 (d) Use of fertilizers.

1163 (e) Cleaning and sanitation of containers, materials,  
1164 equipment, vehicles, and facilities, including storage and  
1165 ripening areas.

1166 (f) Health, hygiene, and sanitation of employees who handle  
1167 tomatoes.

1168 (g) Training and continuing education of a person who  
1169 produces, harvests, packs, or repacks tomatoes in this state,  
1170 and the person's employees who handle tomatoes.

1171 (h) Labeling and recordkeeping, including standards for  
1172 identifying and tracing tomatoes for sale for human consumption.

1173 (3) (a) The department may inspect tomato farms, tomato  
1174 greenhouses, tomato packinghouses, repacking locations, or any  
1175 vehicle being used to transport or hold tomatoes to ensure  
1176 compliance with the applicable provisions of this chapter, and  
1177 the rules adopted under this chapter.

1178 (b) The department may impose an administrative fine not to  
1179 exceed \$5,000 per violation, or issue a written notice or  
1180 warning under s. 500.179, against a person who violates any  
1181 applicable provision of this section, or any rule adopted under  
1182 this section.

1183 (4) (a) The department may adopt rules establishing tomato  
1184 good agricultural practices and tomato best management practices  
1185 for the state's tomato industry based on applicable federal  
1186 requirements, available scientific research, generally accepted  
1187 industry practices, and recommendations of food safety  
1188 professionals.

1189 (b) A person who documents compliance with the department's

580-04107-09

2009868c2

1190 rules, tomato good agricultural practices, and tomato best  
1191 management practices is presumed to introduce tomatoes into the  
1192 stream of commerce that are safe for human consumption, unless  
1193 the department identifies noncompliance through inspections.

1194 (5) The following are exempt from subsections (2) and (4):

1195 (a) Tomatoes sold by the grower to a consumer on the  
1196 premises on which they are grown in an amount that does not  
1197 exceed two 25 lb. boxes per customer.

1198 (b) Tomatoes sold by the grower at a local farmers market,  
1199 in an amount that does not exceed two 25 lb. boxes per customer.

1200 (6) The department may adopt rules pursuant to ss.

1201 120.536(1) and 120.54 to administer this section.

1202 Section 29. Paragraph (a) of subsection (2) of section  
1203 501.605, Florida Statutes, is amended to read:

1204 501.605 Licensure of commercial telephone sellers.—

1205 (2) An applicant for a license as a commercial telephone  
1206 seller must submit to the department, in such form as it  
1207 prescribes, a written application for the license. The  
1208 application must set forth the following information:

1209 (a) The true name, date of birth, driver's license number,  
1210 ~~social security number~~, and home address of the applicant,  
1211 including each name under which he or she intends to do  
1212 business.

1213

1214 The application shall be accompanied by a copy of any: Script,  
1215 outline, or presentation the applicant will require or suggest a  
1216 salesperson to use when soliciting, or, if no such document is  
1217 used, a statement to that effect; sales information or  
1218 literature to be provided by the applicant to a salesperson; and

580-04107-09

2009868c2

1219 sales information or literature to be provided by the applicant  
1220 to a purchaser in connection with any solicitation.

1221 Section 30. Paragraph (a) of subsection (1) of section  
1222 501.607, Florida Statutes, is amended to read:

1223 501.607 Licensure of salespersons.—

1224 (1) An applicant for a license as a salesperson must submit  
1225 to the department, in such form as it prescribes, a written  
1226 application for a license. The application must set forth the  
1227 following information:

1228 (a) The true name, date of birth, driver's license number,  
1229 ~~social security number~~, and home address of the applicant.

1230 Section 31. Subsection (2) of section 501.913, Florida  
1231 Statutes, is amended to read:

1232 501.913 Registration.—

1233 (2) The completed application shall be accompanied by:

1234 (a) Specimens or facsimiles of the label for each brand of  
1235 antifreeze;

1236 (b) An application fee of \$200 for each brand; and

1237 (c) A properly labeled sample of at least 1 gallon, but not  
1238 more than 2 gallons, of each brand of antifreeze.

1239 Section 32. Subsection (2) of section 525.01, Florida  
1240 Statutes, is amended to read:

1241 525.01 Gasoline and oil to be inspected.—

1242 (2) All petroleum fuels are ~~shall be~~ subject to inspection  
1243 and analysis by the department. Before selling or offering for  
1244 sale in this state any petroleum fuel, all manufacturers,  
1245 terminal suppliers, wholesalers, and importers as defined in s.  
1246 206.01 ~~jobbers~~ shall file with the department:

1247 (a) An affidavit that they desire to do business in this

580-04107-09

2009868c2

1248 state, and the name and address of the manufacturer of the  
1249 petroleum fuel.

1250 (b) An affidavit stating that the petroleum fuel is in  
1251 conformity with the standards prescribed by department rule.

1252 Section 33. Subsections (1) and (3) of section 525.09,  
1253 Florida Statutes, are amended to read:

1254 525.09 Inspection fee.—

1255 (1) For the purpose of defraying the expenses incident to  
1256 inspecting, testing, and analyzing petroleum fuels in this  
1257 state, there shall be paid to the department a charge of one-  
1258 eighth cent per gallon on all gasoline, alternative fuel  
1259 containing alcohol as defined in s. 525.01(1)(c)1. or 2.,  
1260 kerosene (except when used as aviation turbine fuel), and #1  
1261 fuel oil for sale or use in this state. This inspection fee  
1262 shall be imposed in the same manner as the motor fuel tax  
1263 pursuant to s. 206.41. Payment shall be made on or before the  
1264 25th day of each month.

1265 (3) All remittances to the department for the inspection  
1266 tax herein provided shall be accompanied by a detailed report  
1267 under oath showing the number of gallons of gasoline,  
1268 alternative fuel containing alcohol, as defined in s.  
1269 525.01(1)(c)1. and 2., kerosene, or fuel oil sold and delivered  
1270 in each county.

1271 Section 34. Section 526.50, Florida Statutes, is amended to  
1272 read:

1273 526.50 Definition of terms.—As used in this part:

1274 (1) "Brake fluid" means the fluid intended for use as the  
1275 liquid medium through which force is transmitted in the  
1276 hydraulic brake system of a vehicle operated upon the highways.

580-04107-09

2009868c2

1277       (2) "Brand" means the product name appearing on the label  
1278 of a container of brake fluid.

1279       ~~(3)-(5)~~ "Container" means any receptacle in which brake  
1280 fluid is immediately contained when sold, but does not mean a  
1281 carton or wrapping in which a number of such receptacles are  
1282 shipped or stored or a tank car or truck.

1283       ~~(4)-(2)~~ "Department" means the Department of Agriculture and  
1284 Consumer Services.

1285       (5) "Formula" means the name of the chemical mixture or  
1286 composition of the brake fluid product.

1287       ~~(6)-(4)~~ "Labeling" includes all written, printed or graphic  
1288 representations, in any form whatsoever, imprinted upon or  
1289 affixed to any container of brake fluid.

1290       ~~(7)-(6)~~ "Permit year" means a period of 12 months commencing  
1291 July 1 and ending on the next succeeding June 30.

1292       ~~(8)-(7)~~ "Registrant" means any manufacturer, packer,  
1293 distributor, seller, or other person who has registered a brake  
1294 fluid with the department.

1295       ~~(9)-(3)~~ "Sell" includes give, distribute, barter, exchange,  
1296 trade, keep for sale, offer for sale or expose for sale, in any  
1297 of their variant forms.

1298       Section 35. Section 526.51, Florida Statutes, is amended to  
1299 read:

1300       526.51 Registration; ~~renewal and fees~~; departmental  
1301 expenses; cancellation or refusal to issue or renew.-

1302       (1) (a) Application for registration of each brand of brake  
1303 fluid shall be made on forms to be supplied by the department.  
1304 The applicant shall give his or her name and address and the  
1305 brand name of the brake fluid, state that he or she owns the

580-04107-09

2009868c2

1306 brand name and has complete control over the product sold  
1307 thereunder in Florida, and provide the name and address of the  
1308 resident agent in Florida. If the applicant does not own the  
1309 brand name but wishes to register the product with the  
1310 department, a notarized affidavit that gives the applicant full  
1311 authorization to register the brand name and that is signed by  
1312 the owner of the brand name must accompany the application for  
1313 registration. The affidavit must include all affected brand  
1314 names, the owner's company or corporate name and address, the  
1315 applicant's company or corporate name and address, and a  
1316 statement from the owner authorizing the applicant to register  
1317 the product with the department. The owner of the brand name  
1318 shall maintain complete control over each product sold under  
1319 that brand name in this state. All first-time brand-formula  
1320 combination ~~new-product~~ applications must be accompanied by a  
1321 certified report from an independent testing laboratory, setting  
1322 forth the analysis of the brake fluid which shall show its  
1323 quality to be not less than the specifications established by  
1324 the department for brake fluids. A sample of not less than 24  
1325 fluid ounces of brake fluid shall be submitted, in a container  
1326 or containers, with labels representing exactly how the  
1327 containers of brake fluid will be labeled when sold, and the  
1328 sample and container shall be analyzed and inspected by the  
1329 Division of Standards in order that compliance with the  
1330 department's specifications and labeling requirements may be  
1331 verified. Upon approval of the application, the department shall  
1332 register the brand name of the brake fluid and issue to the  
1333 applicant a permit authorizing the registrant to sell the brake  
1334 fluid in this state during the permit year specified in the

580-04107-09

2009868c2

1335 permit.

1336 (b) Each applicant shall pay a fee of \$100 with each  
1337 application. An applicant seeking reregistration of a previously  
1338 registered brand-formula combination must submit a completed  
1339 application and all materials required under this subsection to  
1340 the department before the first day of the permit year. A brand-  
1341 formula combination for which a completed application and all  
1342 materials required under this subsection are not received before  
1343 the first day of the permit year ceases to be registered with  
1344 the department until a completed application and all materials  
1345 required under this subsection are received and approved. Any  
1346 fee, application, or materials received after the first day of  
1347 the permit year, if the brand-formula combination was previously  
1348 registered with the department, A permit may be renewed by  
1349 application to the department, accompanied by a renewal fee of  
1350 \$50 on or before the last day of the permit year immediately  
1351 preceding the permit year for which application is made for  
1352 renewal of registration. To any fee not paid when due, there  
1353 shall accrue a penalty of \$25, which shall be added to the  
1354 renewal fee. ~~Renewals will be accepted only on brake fluids that~~  
1355 ~~have no change in formula, composition, or brand name.~~ Any  
1356 change in formula, composition, or brand name of any brake fluid  
1357 constitutes a new product that must be registered in accordance  
1358 with this part.

1359 (2) All fees collected under the provisions of this section  
1360 shall be credited to the General Inspection Trust Fund of the  
1361 department and all expenses incurred in the enforcement of this  
1362 part shall be paid from said fund.

1363 (3) The department may cancel or, refuse to issue ~~or refuse~~

580-04107-09

2009868c2

1364 ~~to renew~~ any registration and permit after due notice and  
1365 opportunity to be heard if it finds that the brake fluid is  
1366 adulterated or misbranded or that the registrant has failed to  
1367 comply with the provisions of this part or the rules and  
1368 regulations promulgated thereunder.

1369 Section 36. Paragraph (a) of subsection (3) of section  
1370 526.52, Florida Statutes, is amended to read:

1371 526.52 Specifications; adulteration and misbranding.—

1372 (3) Brake fluid is deemed to be misbranded:

1373 (a) If its container does not bear on its side or top a  
1374 label on which is printed the name and place of business of the  
1375 registrant of the product, the words "brake fluid," and a  
1376 statement that the product therein equals or exceeds the minimum  
1377 specification of the Society of Automotive Engineers for heavy-  
1378 duty-type brake fluid or equals or exceeds Federal Motor Vehicle  
1379 Safety Standard No. 116 adopted by the United States Department  
1380 of Transportation, ~~heavy-duty-type~~. By regulation the department  
1381 may require that the duty-type classification appear on the  
1382 label.

1383 Section 37. Subsection (2) of section 526.53, Florida  
1384 Statutes, is amended to read:

1385 526.53 Enforcement; inspection and analysis, stop-sale and  
1386 disposition, regulations.—

1387 (2) (a) When any brake fluid is sold in violation of any of  
1388 the provisions of this part, all such affected brake fluid of  
1389 the same brand name ~~on the same premises on which the violation~~  
1390 ~~occurred~~ shall be placed under a stop-sale order by the  
1391 department by serving the owner of the brand name, distributor,  
1392 or other entity responsible for selling or distributing the



580-04107-09

2009868c2

1393 product in the state with the stop-sale order. The department  
1394 shall withdraw its stop-sale order upon the removal of the  
1395 violation or upon voluntary destruction of the product, or other  
1396 disposal approved by the department, under the supervision of  
1397 the department.

1398 (b) In addition to being subject to the stop-sale  
1399 procedures above, unregistered brake fluid shall be held by the  
1400 department or its representative, at a place to be designated in  
1401 the stop-sale order, until properly registered and released in  
1402 writing by the department or its representative. If application  
1403 is ~~has~~ not ~~been~~ made for registration of the ~~such~~ product within  
1404 30 days after issue of the stop-sale order, such product shall  
1405 be disposed of by the department, or, with the department's  
1406 consent, by the business, to any tax-supported institution or  
1407 agency of the state if the brake fluid meets legal  
1408 specifications or by other disposal authorized by rule of the  
1409 department if it fails to meet legal specifications.

1410 Section 38. Subsections (2) and (5) of section 527.02,  
1411 Florida Statutes, are amended to read:

1412 527.02 License; penalty; fees.—

1413 (2) Each business location of a person having multiple  
1414 locations shall be separately licensed and must meet the  
1415 requirements of this section. Such license shall be granted to  
1416 any applicant determined by the department to be competent,  
1417 qualified, and trustworthy who files with the department a  
1418 surety bond, insurance affidavit, or other proof of insurance,  
1419 as hereinafter specified, and pays for such license the  
1420 following original application fee for new licenses and annual  
1421 renewal fees for existing licenses:

580-04107-09

2009868c2

	License Category	Original Application Fee	Renewal Fee
1422	Category I liquefied petroleum gas dealer . . . . .	<u>\$600</u> <del>\$525</del>	<u>\$500</u> <del>\$425</del>
1423	Category II liquefied petroleum gas dispenser . . . . .	525	<u>425</u> <del>375</del>
1424	Category III liquefied petroleum gas cylinder exchange unit operator . . . . .	<u>125</u> <del>100</del>	<u>75</u> <del>65</del>
1425	Category IV liquefied petroleum gas dispenser and recreational vehicle servicer . . . . .	525	<u>425</u> <del>400</del>
1426	Category V liquefied petroleum petroleum gases dealer for industrial uses only . . . . .	<u>350</u> <del>300</del>	<u>275</u> <del>200</del>
1427	LP gas installer . . . . .	<u>400</u> <del>300</del>	<u>300</u> <del>200</del>

580-04107-09

2009868c2

1428	Specialty		
	installer . . . . .	300	<u>250</u> <del>200</del>
1429	Dealer in appliances and		
	equipment for		
	use of liquefied petroleum		
	gas . . . . .	50	45
1430	Manufacturer of liquefied		
	petroleum		
	gas appliances and		
	equipment . . . . .	525	<u>425</u> <del>375</del>
1431	Requalifier of		
	cylinders . . . . .	525	<u>425</u> <del>375</del>
1432	fabricator, repairer, and		
	tester of		
	vehicles and cargo		
	tanks . . . . .	525	<u>425</u> <del>375</del>

1433

1434

1435 (5) The license fee for a pipeline system operator shall be

1436 \$350 ~~\$100 per system owned or operated by the person, not to~~

1437 ~~exceed \$400 per license year.~~ Such license fee applies only to a

1438 pipeline system operator who owns or operates a liquefied

1439 petroleum gas pipeline system that is used to transmit liquefied

1440 petroleum gas from a common source to the ultimate customer and

580-04107-09

2009868c2

1441 that serves 10 or more customers. The license shall be renewed  
1442 each year at a fee of \$275 per year.

1443 Section 39. Subsections (1) and (3) and paragraphs (a) and  
1444 (c) of subsection (5) of section 527.0201, Florida Statutes, are  
1445 amended to read:

1446 527.0201 Qualifiers; master qualifiers; examinations.—

1447 (1) In addition to the requirements of s. 527.02, any  
1448 person applying for a license to engage in the activities of a  
1449 pipeline system operator, category I liquefied petroleum gas  
1450 dealer, category II liquefied petroleum gas dispenser, category  
1451 IV liquefied petroleum gas dispenser and recreational vehicle  
1452 servicer, category V liquefied petroleum gases dealer for  
1453 industrial uses only, LP gas installer, specialty installer,  
1454 requalifier ~~requalification~~ of cylinders, or fabricator,  
1455 repairer, and tester of vehicles and cargo tanks must prove  
1456 competency by passing a written examination administered by the  
1457 department or its agent with a grade of at least 75 percent in  
1458 each area tested ~~or above~~. Each applicant for examination shall  
1459 submit a \$30 ~~\$20~~ nonrefundable fee. The department shall by rule  
1460 specify the general areas of competency to be covered by each  
1461 examination and the relative weight to be assigned in grading  
1462 each area tested.

1463 (3) Qualifier cards issued to category I liquefied  
1464 petroleum gas dealers and liquefied petroleum gas installers  
1465 shall expire 3 years after the date of issuance. All category I  
1466 liquefied petroleum gas dealer qualifiers and liquefied  
1467 petroleum gas installer qualifiers holding a valid qualifier  
1468 card upon the effective date of this act shall retain their  
1469 qualifier status until July 1, 2003, and may sit for the master

580-04107-09

2009868c2

1470 qualifier examination at any time during that time period. All  
1471 such category I liquefied petroleum gas dealer qualifiers and  
1472 liquefied petroleum gas installer qualifiers may renew their  
1473 qualification on or before July 1, 2003, upon application to the  
1474 department, payment of a \$20 renewal fee, and documentation of  
1475 the completion of a minimum of 16 ~~12~~ hours of approved  
1476 continuing education courses, as defined by department rule,  
1477 during the previous 3-year period. Applications for renewal must  
1478 be made 30 calendar days prior to expiration. Persons failing to  
1479 renew prior to the expiration date must reapply and take a  
1480 qualifier competency examination in order to reestablish  
1481 category I liquefied petroleum gas dealer qualifier and  
1482 liquefied petroleum gas installer qualifier status. If a  
1483 category I liquefied petroleum gas qualifier or liquefied  
1484 petroleum gas installer qualifier becomes a master qualifier at  
1485 any time during the effective date of the qualifier card, the  
1486 card shall remain in effect until expiration of the master  
1487 qualifier certification.

1488 (5) In addition to all other licensing requirements, each  
1489 category I liquefied petroleum gas dealer and liquefied  
1490 petroleum gas installer must, at the time of application for  
1491 licensure, identify to the department one master qualifier who  
1492 is a full-time employee at the licensed location. This person  
1493 shall be a manager, owner, or otherwise primarily responsible  
1494 for overseeing the operations of the licensed location and must  
1495 provide documentation to the department as provided by rule. The  
1496 master qualifier requirement shall be in addition to the  
1497 requirements of subsection (1).

1498 (a) In order to apply for certification as a master

580-04107-09

2009868c2

1499 qualifier, each applicant must be a category I liquefied  
1500 petroleum gas dealer qualifier or liquefied petroleum gas  
1501 installer qualifier, must be employed by a licensed category I  
1502 liquefied petroleum gas dealer, liquefied petroleum gas  
1503 installer, or applicant for such license, must provide  
1504 documentation of a minimum of 1 year's work experience in the  
1505 gas industry, and must pass a master qualifier competency  
1506 examination. Master qualifier examinations shall be based on  
1507 Florida's laws, rules, and adopted codes governing liquefied  
1508 petroleum gas safety, general industry safety standards, and  
1509 administrative procedures. The examination must be successfully  
1510 passed ~~completed~~ by the applicant with a grade of at least 75  
1511 percent ~~or more~~. Each applicant for master qualifier status  
1512 shall submit to the department a nonrefundable \$50 ~~\$30~~  
1513 examination fee prior to the examination.

1514 (c) Master qualifier status shall expire 3 years after the  
1515 date of issuance of the certificate and may be renewed by  
1516 submission to the department of documentation of completion of  
1517 at least 16 ~~12~~ hours of approved continuing education courses  
1518 during the 3-year period; proof of employment with a licensed  
1519 category I liquefied petroleum gas dealer, liquefied petroleum  
1520 gas installer, or applicant; and a \$30 certificate renewal fee.  
1521 The department shall define, by rule, approved courses of  
1522 continuing education.

1523 Section 40. Subsection (4) of section 527.021, Florida  
1524 Statutes, is amended to read:

1525 527.021 Registration of transport vehicles.—

1526 (4) An inspection fee of \$75 ~~\$50~~ shall be assessed for each  
1527 registered vehicle inspected by the department pursuant to s.

580-04107-09

2009868c2

1528 527.061. Registered vehicles shall be inspected annually. All  
1529 inspection fees collected in connection with this section shall  
1530 be deposited in the General Inspection Trust Fund for the  
1531 purpose of administering the provisions of this chapter.

1532 Section 41. Section 527.12, Florida Statutes, is amended to  
1533 read:

1534 527.12 Cease and desist orders; stop-use orders; stop-  
1535 operation orders; stop-sale orders; administrative fines.-

1536 (1) Whenever the department has ~~shall have~~ reason to  
1537 believe that any person is violating or has violated ~~been~~  
1538 ~~violating provisions of~~ this chapter or any rules adopted under  
1539 this chapter pursuant thereto, the department ~~it~~ may issue a  
1540 cease and desist order, ~~or~~ impose a civil penalty, or do both  
1541 ~~may issue such cease and desist order and impose a civil~~  
1542 ~~penalty.~~

1543 (2) Whenever a person or liquefied petroleum gas system or  
1544 storage facility, or any part or component thereof, fails to  
1545 comply with this chapter or any rules adopted under this  
1546 chapter, the department may issue a stop-use order, stop-  
1547 operation order, or stop-sale order.

1548 Section 42. Subsection (1) of section 559.805, Florida  
1549 Statutes, is amended to read:

1550 559.805 Filings with the department; disclosure of  
1551 advertisement identification number.-

1552 (1) Every seller of a business opportunity shall annually  
1553 file with the department a copy of the disclosure statement  
1554 required by s. 559.803 before ~~prior~~ to placing an advertisement  
1555 or making any other representation designed to offer to, sell  
1556 to, or solicit an offer to buy a business opportunity from a

580-04107-09

2009868c2

1557 prospective purchaser in this state and shall update this filing  
1558 by reporting any material change in the required information  
1559 within 30 days after the material change occurs. An  
1560 advertisement is not placed in the state merely because the  
1561 publisher circulates, or there is circulated on his or her  
1562 behalf in the state, any bona fide newspaper or other  
1563 publication of general, regular, and paid circulation which has  
1564 had more than two-thirds of its circulation during the past 12  
1565 months outside the state or because a radio or television  
1566 program originating outside the state is received in the state.  
1567 If the seller is required by s. 559.807 to provide a bond or  
1568 establish a trust account or guaranteed letter of credit, he or  
1569 she shall contemporaneously file with the department a copy of  
1570 the bond, a copy of the formal notification by the depository  
1571 that the trust account is established, or a copy of the  
1572 guaranteed letter of credit. Every seller of a business  
1573 opportunity shall file with the department a list of independent  
1574 agents who will engage in the offer or sale of business  
1575 opportunities on behalf of the seller in this state. This list  
1576 must be kept current and shall include the following  
1577 information: name, home and business address, telephone number,  
1578 present employer, ~~social security number~~, and birth date. A ~~No~~  
1579 person may not ~~shall be allowed to~~ offer or sell business  
1580 opportunities unless the required information is ~~has been~~  
1581 provided to the department.

1582 Section 43. Subsection (3) of section 559.928, Florida  
1583 Statutes, is amended to read:

1584 559.928 Registration.—

1585 (3) Each independent agent shall annually file an affidavit



580-04107-09

2009868c2

1586 with the department before ~~prior to~~ engaging in business in this  
1587 state. This affidavit must include the independent agent's full  
1588 name, legal business or trade name, mailing address, business  
1589 address, telephone number, ~~social security number~~, and the name  
1590 or names and addresses of each seller of travel represented by  
1591 the independent agent. A letter evidencing proof of filing must  
1592 be issued by the department and must be prominently displayed in  
1593 the independent agent's primary place of business. Each  
1594 independent agent must also submit an annual registration fee of  
1595 \$50. All moneys collected pursuant to the imposition of the fee  
1596 shall be deposited by the Chief Financial Officer into the  
1597 General Inspection Trust Fund of the Department of Agriculture  
1598 and Consumer Services for the sole purpose of administrating  
1599 this part. As used in this subsection, the term "independent  
1600 agent" means a person who represents a seller of travel by  
1601 soliciting persons on its behalf; who has a written contract  
1602 with a seller of travel which is operating in compliance with  
1603 this part and any rules adopted thereunder; who does not receive  
1604 a fee, commission, or other valuable consideration directly from  
1605 the purchaser for the seller of travel; who does not at any time  
1606 have any unissued ticket stock or travel documents in his or her  
1607 possession; and who does not have the ability to issue tickets,  
1608 vacation certificates, or any other travel document. The term  
1609 "independent agent" does not include an affiliate of the seller  
1610 of travel, as that term is used in s. 559.935(3), or the  
1611 employees of the seller of travel or of such affiliates.

1612 Section 44. Subsection (10) of section 570.07, Florida  
1613 Statutes, is amended to read:

1614 570.07 Department of Agriculture and Consumer Services;

580-04107-09

2009868c2

1615 functions, powers, and duties.—The department shall have and  
1616 exercise the following functions, powers, and duties:

1617 (10) To act as adviser to producers and distributors, when  
1618 requested, ~~and~~ to assist them in the economical and efficient  
1619 distribution of their agricultural products, ~~and~~ to encourage  
1620 cooperative effort among producers to gain economical and  
1621 efficient production of agricultural products, and to adopt  
1622 rules establishing comprehensive best management practices for  
1623 agricultural production and food safety.

1624 Section 45. Subsection (7) of section 570.0725, Florida  
1625 Statutes, is amended to read:

1626 570.0725 Food recovery; legislative intent; department  
1627 functions.—

1628 (7) For public information purposes, the department may  
1629 ~~shall~~ develop and provide a public information brochure  
1630 detailing the need for food banks and similar of food recovery  
1631 programs, the benefit of such food recovery programs, the manner  
1632 in which such organizations may become involved in such food  
1633 recovery programs, and the protection afforded to such programs  
1634 under s. 768.136, and the food recovery entities or food banks  
1635 that exist in the state. This brochure must be updated annually.  
1636 A food bank or similar food recovery organization seeking to be  
1637 included on a list of such organizations must notify the  
1638 department and provide the information required by rule of the  
1639 department. Such organizations are responsible for updating the  
1640 information and providing the updated information to the  
1641 department. The department may adopt rules to implement this  
1642 section.

1643 Section 46. Paragraph (e) of subsection (2) of section

580-04107-09

2009868c2

1644 570.48, Florida Statutes, is amended to read:

1645 570.48 Division of Fruit and Vegetables; powers and duties;  
1646 records.—The duties of the Division of Fruit and Vegetables  
1647 include, but are not limited to:

1648 (2)

1649 (e) Performing tomato food safety inspections under s.  
1650 500.70 on tomato farms, in tomato greenhouses, and in tomato  
1651 packinghouses and repackers.

1652 Section 47. Paragraph (e) of subsection (6) of section  
1653 570.53, Florida Statutes, is amended to read:

1654 570.53 Division of Marketing and Development; powers and  
1655 duties.—The powers and duties of the Division of Marketing and  
1656 Development include, but are not limited to:

1657 (6)

1658 (e) Extending in every practicable way the distribution and  
1659 sale of Florida agricultural products throughout the markets of  
1660 the world as required of the department by s. ss. 570.07(7),  
1661 (8), (10), and (11) ~~and 570.071~~ and chapters 571, 573, and 574.

1662 Section 48. Subsection (2) of section 570.54, Florida  
1663 Statutes, is amended to read:

1664 570.54 Director; duties.—

1665 (2) It shall be the duty of the director of this division  
1666 to supervise, direct, and coordinate the activities authorized  
1667 by ss. 570.07(4), (7), (8), (10), (11), (12), (17), (18), and  
1668 (20), ~~570.071~~, 570.21, 534.47-534.53, and 604.15-604.34 and  
1669 chapters 504, 571, 573, and 574 and to exercise other powers and  
1670 authority as authorized by the department.

1671 Section 49. Subsection (4) of section 570.55, Florida  
1672 Statutes, is amended to read:

580-04107-09

2009868c2

1673           570.55 Identification of sellers or handlers of tropical or  
1674 subtropical fruit and vegetables; containers specified;  
1675 penalties.—

1676           (4) IDENTIFICATION OF HANDLER.—At the time of each  
1677 transaction involving the handling or sale of 55 pounds or more  
1678 of tropical or subtropical fruit or vegetables in the primary  
1679 channel of trade, the buyer or receiver of the tropical or  
1680 subtropical fruit or vegetables shall demand a bill of sale,  
1681 invoice, sales memorandum, or other document listing the date of  
1682 the transaction, the quantity of the tropical or subtropical  
1683 fruit or vegetables involved in the transaction, and the  
1684 identification of the seller or handler as it appears on the  
1685 driver's license of the seller or handler, including the  
1686 driver's license number. If the seller or handler does not  
1687 possess a driver's license, the buyer or receiver shall use any  
1688 other acceptable means of identification, which may include, but  
1689 is not limited to, i.e., voter's registration card and number,  
1690 draft card, ~~social security card,~~ or other identification.  
1691 However, no less than two identification documents shall be  
1692 used. The identification of the seller or handler shall be  
1693 recorded on the bill of sale, sales memorandum, invoice, or  
1694 voucher, which shall be retained by the buyer or receiver for a  
1695 period of not less than 1 year from the date of the transaction.

1696           Section 50. Subsection (3) of section 570.902, Florida  
1697 Statutes, is amended to read:

1698           570.902 Definitions; ss. 570.902 and 570.903.—For the  
1699 purpose of ss. 570.902 and 570.903:

1700           ~~(3) "Museum" means the Florida Agricultural Museum which is~~  
1701 ~~designated as the museum for agriculture and rural history of~~

580-04107-09

2009868c2

1702 ~~the State of Florida.~~

1703 Section 51. Section 570.903, Florida Statutes, is amended  
1704 to read:

1705 570.903 Direct-support organization.—

1706 (1) When the Legislature authorizes the establishment of a  
1707 direct-support organization to provide assistance for the  
1708 ~~museums,~~ the Florida Agriculture in the Classroom Program, ~~the~~  
1709 ~~Florida State Collection of Arthropods,~~ the Friends of the  
1710 Florida State Forests Program of the Division of Forestry, and  
1711 the Forestry Arson Alert Program, and other programs of the  
1712 department, the following provisions shall govern the creation,  
1713 use, powers, and duties of the direct-support organization.

1714 (a) The department shall enter into a memorandum or letter  
1715 of agreement with the direct-support organization, which shall  
1716 specify the approval of the department, the powers and duties of  
1717 the direct-support organization, and rules with which the  
1718 direct-support organization shall comply.

1719 (b) The department may permit, without charge, appropriate  
1720 use of property, facilities, and personnel of the department by  
1721 a direct-support organization, subject to the provisions of ss.  
1722 570.902 and 570.903. The use shall be directly in keeping with  
1723 the approved purposes of the direct-support organization and  
1724 shall not be made at times or places that would unreasonably  
1725 interfere with opportunities for the general public to use  
1726 department facilities for established purposes.

1727 (c) The department shall prescribe by contract or by rule  
1728 conditions with which a direct-support organization shall comply  
1729 in order to use property, facilities, or personnel of the  
1730 department ~~or museum~~. Such rules shall provide for budget and

580-04107-09

2009868c2

1731 audit review and oversight by the department.

1732 (d) The department shall not permit the use of property,  
1733 facilities, or personnel of the ~~museum,~~ department, or  
1734 designated program by a direct-support organization which does  
1735 not provide equal employment opportunities to all persons  
1736 regardless of race, color, religion, sex, age, or national  
1737 origin.

1738 (2) (a) The direct-support organization shall be empowered  
1739 to conduct programs and activities; raise funds; request and  
1740 receive grants, gifts, and bequests of money; acquire, receive,  
1741 hold, invest, and administer, in its own name, securities,  
1742 funds, objects of value, or other property, real or personal;  
1743 and make expenditures to or for the direct or indirect benefit  
1744 of the ~~museum or~~ designated program.

1745 (b) Notwithstanding the provisions of s. 287.057, the  
1746 direct-support organization may enter into contracts or  
1747 agreements with or without competitive bidding for the  
1748 ~~restoration of objects, historical buildings, and other~~  
1749 ~~historical materials or for the purchase of objects, historical~~  
1750 ~~buildings, and other historical materials which are to be added~~  
1751 ~~to the collections of the museum, or~~ benefit of the designated  
1752 program. However, before the direct-support organization may  
1753 enter into a contract or agreement without competitive bidding,  
1754 the direct-support organization shall file a certification of  
1755 conditions and circumstances with the internal auditor of the  
1756 department justifying each contract or agreement.

1757 (c) Notwithstanding the provisions of s. 287.025(1)(e), the  
1758 direct-support organization may enter into contracts to insure  
1759 property of the ~~museum or~~ designated programs ~~and may insure~~

580-04107-09

2009868c2

1760 ~~objects or collections on loan from others in satisfying~~  
1761 ~~security terms of the lender.~~

1762 (3) The direct-support organization shall provide for an  
1763 annual financial audit in accordance with s. 215.981.

1764 (4) Neither a designated program ~~or a museum~~, nor a  
1765 nonprofit corporation trustee or employee may:

1766 (a) Receive a commission, fee, or financial benefit in  
1767 connection with the sale or exchange of property ~~historical~~  
1768 ~~objects or properties~~ to the direct-support organization, ~~the~~  
1769 ~~museum~~, or the designated program; or

1770 (b) Be a business associate of any individual, firm, or  
1771 organization involved in the sale or exchange of property to the  
1772 direct-support organization, ~~the museum~~, or the designated  
1773 program.

1774 (5) All moneys received by the direct-support organization  
1775 shall be deposited into an account of the direct-support  
1776 organization and shall be used by the organization in a manner  
1777 consistent with the goals of ~~the museum~~ or designated program.

1778 (6) The identity of a donor or prospective donor who  
1779 desires to remain anonymous and all information identifying such  
1780 donor or prospective donor are confidential and exempt from the  
1781 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
1782 Constitution.

1783 (7) The Commissioner of Agriculture, or the commissioner's  
1784 designee, may serve on the board of trustees and the executive  
1785 committee of any direct-support organization established to  
1786 benefit the museum or any designated program.

1787 ~~(8) The department shall establish by rule archival~~  
1788 ~~procedures relating to museum artifacts and records. The rules~~

580-04107-09

2009868c2

1789 ~~shall provide procedures which protect the museum's artifacts~~  
1790 ~~and records equivalent to those procedures which have been~~  
1791 ~~established by the Department of State under chapters 257 and~~  
1792 ~~267.~~

1793 Section 52. Subsection (4) of section 573.118, Florida  
1794 Statutes, is amended to read:

1795 573.118 Assessment; funds; audit; loans.—

1796 (4) In the event of levying and collecting of assessments,  
1797 for each fiscal year in which assessment funds are received by  
1798 the department, the department shall maintain records of  
1799 collections and expenditures for each marketing order separately  
1800 within the state's accounting system. If requested by an  
1801 advisory council, department staff shall cause to be made a  
1802 thorough ~~annual~~ audit of the ~~books and accounts by a certified~~  
1803 ~~public accountant~~, such audit to be completed within 60 days  
1804 after the request has been received ~~end of the fiscal year~~. The  
1805 advisory council ~~department and all producers and handlers~~  
1806 ~~covered by the marketing order~~ shall be provided a copy of the  
1807 ~~properly advised of the details of the annual official~~ audit of  
1808 the accounts ~~as shown by the certified public accountant~~ within  
1809 30 days after ~~of~~ the completion of the audit.

1810 Section 53. Subsections (18) through (30) of section  
1811 581.011, Florida Statutes, are renumbered as subsections (17)  
1812 through (29), respectively, and present subsections (17) and  
1813 (20) of that section are amended to read:

1814 581.011 Definitions.—As used in this chapter:

1815 ~~(17) "Museum" means the Florida State Collection of~~  
1816 ~~Arthropods.~~

1817 (19) ~~(20)~~ "Nursery" means any grounds or premises on or in



580-04107-09

2009868c2

1818 which nursery stock is grown, propagated, or held for sale or  
1819 distribution, including ~~except where~~ aquatic plant species ~~are~~  
1820 tended for harvest in the natural environment.

1821 Section 54. Paragraph (d) of subsection (14) of section  
1822 581.031, Florida Statutes, is amended to read:

1823 581.031 Department; powers and duties.—The department has  
1824 the following powers and duties:

1825 (14)

1826 (d) To prescribe a fee for these services, if provided ~~if provided~~ the  
1827 fee does not exceed the cost of the services rendered. Annual  
1828 citrus source tree registration fees shall not exceed \$15 ~~\$5~~ per  
1829 tree. If the fee has not been paid within 30 days of billing, a  
1830 penalty of \$10 or 20 percent of the unpaid balance, whichever is  
1831 greater, shall be assessed.

1832 Section 55. Subsection (6) of section 581.131, Florida  
1833 Statutes, is amended to read:

1834 581.131 Certificate of registration.—

1835 (6) Neither the certificate of registration fee nor the  
1836 annual renewal fee shall exceed \$600 ~~\$460~~. The department may  
1837 exempt from the payment of a certificate fee those governmental  
1838 agency nurseries whose nursery stock is used exclusively for  
1839 planting on their own property.

1840 Section 56. Paragraph (a) of subsection (3) of section  
1841 581.211, Florida Statutes, is amended to read:

1842 581.211 Penalties for violations.—

1843 (3) (a) 1. In addition to any other provision of law, the  
1844 department may, after notice and hearing, impose an  
1845 administrative fine not exceeding \$10,000 ~~\$5,000~~ for each  
1846 violation of this chapter, upon any person, nurseryman, stock

580-04107-09

2009868c2

1847 dealer, agent or plant broker. The fine, when paid, shall be  
1848 deposited in the Plant Industry Trust Fund. In addition, the  
1849 department may place the violator on probation for up to 1 year,  
1850 with conditions.

1851 2. The imposition of a fine or probation pursuant to this  
1852 subsection may be in addition to or in lieu of the suspension or  
1853 revocation of a certificate of registration or certificate of  
1854 inspection.

1855 Section 57. Section 583.13, Florida Statutes, is amended to  
1856 read:

1857 583.13 Labeling and advertising requirements for dressed  
1858 poultry; unlawful acts.—

1859 (1) It is unlawful for any dealer or broker to sell, offer  
1860 for sale, or hold for the purpose of sale in the state any  
1861 dressed or ready-to-cook poultry in bulk unless the ~~such~~ poultry  
1862 is packed in a container clearly bearing a label, not less than  
1863 3 inches by 5 inches, on which shall be plainly and legibly  
1864 printed, in letters of not less than one-fourth inch 1/4 in  
1865 height, ~~the grade and the part name or whole-bird statement of~~  
1866 ~~such poultry. The grade may be expressed in the term "premium,"~~  
1867 ~~"good," or "standard," or as the grade of another state or~~  
1868 ~~federal agency the standards of quality of which, by law, are~~  
1869 ~~equal to the standards of quality provided by this law and rules~~  
1870 ~~promulgated hereunder.~~

1871 (2) It is unlawful to sell unpackaged dressed or ready-to-  
1872 cook poultry at retail unless such poultry is labeled by a  
1873 placard immediately adjacent to the poultry or unless each bird  
1874 is individually labeled to show ~~the grade and the part name or~~  
1875 whole-bird statement. The placard shall be no smaller than 7

580-04107-09

2009868c2

1876 inches by 7 inches in size, and the required labeling  
1877 information shall be legibly and plainly printed on the placard  
1878 in letters not smaller than 1 inch in height.

1879 (3) It is unlawful to sell packaged dressed or ready-to-  
1880 cook poultry at retail unless such poultry is labeled to show  
1881 ~~the grade,~~ the part name or whole-bird statement, the net weight  
1882 of the poultry, and the name and address of the dealer. The size  
1883 of the type on the label must be one-eighth inch or larger. A  
1884 placard immediately adjacent to such poultry may be used to  
1885 indicate ~~the grade and~~ the part name or whole-bird statement,  
1886 but not the net weight of the poultry or the name and address of  
1887 the dealer.

1888 (4) It is unlawful to use dressed or ready-to-cook poultry  
1889 in bulk in the preparation of food served to the public, or to  
1890 hold such poultry for the purpose of such use, unless the  
1891 poultry when received was packed in a container clearly bearing  
1892 a label, not less than 3 inches by 5 inches, on which was  
1893 plainly and legibly printed, in letters not less than one-fourth  
1894 inch in height, ~~the grade and~~ the part name or whole-bird  
1895 statement of such poultry. ~~The grade may be expressed in the~~  
1896 ~~term "premium," "good," or "standard," or as the grade of~~  
1897 ~~another state or federal agency the standards of quality of~~  
1898 ~~which, by law, are equal to the standards of quality provided by~~  
1899 ~~this law and rules promulgated hereunder.~~

1900 (5) It is unlawful to offer dressed or ready-to-cook  
1901 poultry for sale in any advertisement in a newspaper or  
1902 circular, on radio or television, or in any other form of  
1903 advertising without plainly designating in such advertisement  
1904 ~~the grade and~~ the part name or whole-bird statement of such

580-04107-09

2009868c2

1905 poultry.

1906 Section 58. Subsections (4) and (5) of section 590.125,  
1907 Florida Statutes, are renumbered as subsections (5) and (6),  
1908 respectively, subsection (1), paragraph (b) of subsection (3),  
1909 and paragraph (c) of present subsection (4) are amended, and new  
1910 subsections (4) and (7) are added to that section, to read:

1911 590.125 Open burning authorized by the division.—

1912 (1) DEFINITIONS.—As used in this section, the term:

1913 (a) “Certified pile burner” means an individual who  
1914 successfully completes the division’s pile burning certification  
1915 program and possesses a valid pile burner certification number.

1916 (b) “Certified prescribed burn manager” means an individual  
1917 who successfully completes the certified prescribed burning  
1918 certification program of the division and possesses a valid  
1919 certification number.

1920 (c) ~~(d)~~ “Extinguished” means:

1921 1. that no spreading flame For wild land burning or  
1922 certified prescribed burning, that no spreading flames exist.

1923 2. and no visible flame, smoke, or emissions For vegetative  
1924 land-clearing debris burning or pile burning, that no visible  
1925 flames exist.

1926 3. For vegetative land-clearing debris burning or pile  
1927 burning in an area designated as smoke sensitive by the  
1928 division, that no visible flames, smoke, or emissions exist.

1929 (d) “Land-clearing operation” means the uprooting or  
1930 clearing of vegetation in connection with the construction of  
1931 buildings and rights-of-way, land development, and mineral  
1932 operations. The term does not include the clearing of yard  
1933 trash.

580-04107-09

2009868c2

1934        (e) "Pile burning" means the burning of silvicultural,  
 1935 agricultural, or land-clearing and tree-cutting debris  
 1936 originating onsite, which is stacked together in a round or  
 1937 linear fashion, including, but not limited to, a windrow.

1938        (f)~~(a)~~ "Prescribed burning" means the controlled  
 1939 application of fire in accordance with a written prescription  
 1940 for vegetative fuels under specified environmental conditions  
 1941 while following appropriate precautionary measures that ensure  
 1942 that the fire is confined to a predetermined area to accomplish  
 1943 the planned fire or land-management objectives.

1944        (g)~~(e)~~ "Prescription" means a written plan establishing the  
 1945 criteria necessary for starting, controlling, and extinguishing  
 1946 a prescribed burn.

1947        (h) "Yard trash" means vegetative matter resulting from  
 1948 landscaping and yard maintenance operations and other such  
 1949 routine property cleanup activities. The term includes materials  
 1950 such as leaves, shrub trimmings, grass clippings, brush, and  
 1951 palm fronds.

1952        (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND  
 1953 PURPOSE.—

1954        (b) Certified prescribed burning pertains only to broadcast  
 1955 burning for purposes of silviculture, wildlife management,  
 1956 ecological maintenance and restoration, and range and pasture  
 1957 management. It must be conducted in accordance with this  
 1958 subsection and:

1959        1. May be accomplished only when a certified prescribed  
 1960 burn manager is present on site with a copy of the prescription  
 1961 from ignition of the burn to its completion.

1962        2. Requires that a written prescription be prepared before

580-04107-09

2009868c2

1963 receiving authorization to burn from the division.

1964 3. Requires that the specific consent of the landowner or  
1965 his or her designee be obtained before requesting an  
1966 authorization.

1967 4. Requires that an authorization to burn be obtained from  
1968 the division before igniting the burn.

1969 5. Requires that there be adequate firebreaks at the burn  
1970 site and sufficient personnel and firefighting equipment for the  
1971 control of the fire.

1972 6. Is considered to be in the public interest and does not  
1973 constitute a public or private nuisance when conducted under  
1974 applicable state air pollution statutes and rules.

1975 7. Is considered to be a property right of the property  
1976 owner if vegetative fuels are burned as required in this  
1977 subsection.

1978 (4) CERTIFIED PILE BURNING; LEGISLATIVE FINDINGS AND  
1979 PURPOSE.—

1980 (a) Pile burning is a tool that benefits current and future  
1981 generations in Florida by disposing of naturally occurring  
1982 vegetative debris through burning rather than disposing of the  
1983 debris in landfills.

1984 (b) Certified pile burning pertains to the disposal of  
1985 piled, naturally occurring debris from an agricultural,  
1986 silvicultural, or temporary land-clearing operation. A land-  
1987 clearing operation is temporary if it operates for 6 months or  
1988 less. Certified pile burning must be conducted in accordance  
1989 with this subsection, and:

1990 1. A certified pile burner must ensure, before ignition,  
1991 that the piles are properly placed and that the content of the

580-04107-09

2009868c2

1992 piles is conducive to efficient burning.

1993 2. A certified pile burner must ensure that the piles are  
1994 properly extinguished no later than 1 hour after sunset. If the  
1995 burn is conducted in an area designated by the division as smoke  
1996 sensitive, a certified pile burner must ensure that the piles  
1997 are properly extinguished at least 1 hour before sunset.

1998 3. A written pile burn plan must be prepared before  
1999 receiving authorization from the division to burn.

2000 4. The specific consent of the landowner or his or her  
2001 agent must be obtained before requesting authorization to burn.

2002 5. An authorization to burn must be obtained from the  
2003 division or its designated agent before igniting the burn.

2004 6. There must be adequate firebreaks and sufficient  
2005 personnel and firefighting equipment at the burn site to control  
2006 the fire.

2007 (c) If a burn is conducted in accordance with this  
2008 subsection, the property owner and his or her agent are not  
2009 liable under s. 590.13 for damage or injury caused by the fire  
2010 or resulting smoke, and are not in violation of subsection (2),  
2011 unless gross negligence is proven.

2012 (d) A certified pile burner who violates this section  
2013 commits a misdemeanor of the second degree, punishable as  
2014 provided in s. 775.082 or s. 775.083.

2015 (e) The division shall adopt rules regulating certified  
2016 pile burning. The rules shall include procedures and criteria  
2017 for certifying and decertifying certified pile burn managers  
2018 based on past experience, training, and record of compliance  
2019 with this section.

2020 (5)-(4) WILDFIRE HAZARD REDUCTION TREATMENT BY THE

580-04107-09

2009868c2

2021 DIVISION.—The division may conduct fuel reduction initiatives,  
2022 including, but not limited to, burning and mechanical and  
2023 chemical treatment, on any area of wild land within the state  
2024 which is reasonably determined to be in danger of wildfire in  
2025 accordance with the following procedures:

2026 (c) Prepare, ~~and send the county tax collector shall~~  
2027 ~~include with the annual tax statement,~~ a notice to be sent to  
2028 all landowners in each area ~~township~~ designated by the division  
2029 as a wildfire hazard area. The notice must describe particularly  
2030 the area to be treated and the tentative date or dates of the  
2031 treatment and must list the reasons for and the expected  
2032 benefits from the wildfire hazard reduction.

2033 (7) DIVISION APPROVAL OF LOCAL GOVERNMENT OPEN BURNING  
2034 AUTHORIZATION PROGRAMS.—

2035 (a) A county or municipality may exercise the division's  
2036 authority, if delegated by the division under this subsection,  
2037 to issue authorizations for the burning of yard trash or debris  
2038 from land-clearing operations. A county's or municipality's  
2039 existing or proposed open burning authorization program must:

2040 1. Be approved by the division. The division shall not  
2041 approve a program if it fails to meet the requirements of  
2042 subsections (2) and (4) and any rules adopted under those  
2043 subsections.

2044 2. Provide by ordinance or local law the requirements for  
2045 obtaining and performing a burn authorization that comply with  
2046 subsections (2) and (4) and any rules adopted under those  
2047 subsections.

2048 3. Provide for the enforcement of the program's  
2049 requirements.



580-04107-09

2009868c2

2050 4. Provide financial, personnel, and other resources needed  
2051 to carry out the program.

2052 (b) If the division determines that a county's or  
2053 municipality's open burning authorization program does not  
2054 comply with subsections (2) and (4) and any rules adopted under  
2055 those subsections, the division shall require the county or  
2056 municipality to take necessary corrective actions within a  
2057 reasonable period, not to exceed 90 days.

2058 1. If the county or municipality fails to take the  
2059 necessary corrective actions within the required period, the  
2060 division shall resume administration of the open burning  
2061 authorization program in the county or municipality and the  
2062 county or municipality shall cease administration of its  
2063 program.

2064 2. Each county and municipality administering an open  
2065 burning authorization program must cooperate with and assist the  
2066 division in carrying out the division's powers, duties, and  
2067 functions.

2068 3. A person who violates the requirements of a county's or  
2069 municipality's open burning authorization program, as provided  
2070 by ordinance or local law enacted pursuant to this section,  
2071 commits a violation of this chapter, punishable as provided in  
2072 s. 590.14.

2073 Section 59. Subsection (4) of section 590.14, Florida  
2074 Statutes, is renumbered as subsection (7), subsections (1) and  
2075 (3) are amended, and new subsections (4), (5), and (6) are added  
2076 to that section, to read:

2077 590.14 Notice of violation; penalties.—

2078 (1) If a division employee determines that a person has

580-04107-09

2009868c2

2079 violated chapter 589, ~~or~~ this chapter, or any rule adopted by  
2080 the division to administer provisions of law conferring duties  
2081 upon the division, the division employee ~~he or she~~ may issue a  
2082 notice of violation indicating the statute violated. This notice  
2083 will be filed with the division and a copy forwarded to the  
2084 appropriate law enforcement entity for further action if  
2085 necessary.

2086 (3) The department may also impose an administrative fine,  
2087 not to exceed \$1,000 per violation of any section of chapter 589  
2088 or this chapter or violation of any rule adopted by the division  
2089 to administer provisions of law conferring duties upon the  
2090 division. The fine shall be based upon the degree of damage, the  
2091 prior violation record of the person, and whether the person  
2092 knowingly provided false information to obtain an authorization.  
2093 The fines shall be deposited in the Incidental Trust Fund of the  
2094 division.

2095 (4) A person may not:

2096 (a) Fail to comply with any rule or order adopted by the  
2097 division to administer provisions of law conferring duties upon  
2098 the division; or

2099 (b) Knowingly make any false statement or representation in  
2100 any application, record, plan, or other document required by  
2101 this chapter or any rules adopted under this chapter.

2102 (5) A person who violates paragraph (4) (a) or paragraph  
2103 (4) (b) commits a misdemeanor of the second degree, punishable as  
2104 provided in s. 775.082 or s. 775.083.

2105 (6) It is the intent of the Legislature that a penalty  
2106 imposed by a court under subsection (5) be of a severity that  
2107 ensures immediate and continued compliance with this section.

580-04107-09

2009868c2

2108 Section 60. Paragraph (a) of subsection (1) of section  
2109 599.004, Florida Statutes, is amended to read:

2110 599.004 Florida Farm Winery Program; registration; logo;  
2111 fees.—

2112 (1) The Florida Farm Winery Program is established within  
2113 the Department of Agriculture and Consumer Services. Under this  
2114 program, a winery may qualify as a tourist attraction only if it  
2115 is registered with and certified by the department as a Florida  
2116 Farm Winery. A winery may not claim to be certified unless it  
2117 has received written approval from the department.

2118 (a) To qualify as a certified Florida Farm Winery, a winery  
2119 shall meet the following standards:

2120 1. Produce or sell less than 250,000 gallons of wine  
2121 annually.

2122 2. Maintain a minimum of 10 acres of owned or managed land  
2123 ~~vineyards~~ in Florida which produces commodities used in the  
2124 production of wine.

2125 3. Be open to the public for tours, tastings, and sales at  
2126 least 30 hours each week.

2127 4. Make annual application to the department for  
2128 recognition as a Florida Farm Winery, on forms provided by the  
2129 department.

2130 5. Pay an annual application and registration fee of \$100.

2131 Section 61. Subsection (1) of section 604.15, Florida  
2132 Statutes, is amended, and subsection (11) is added to that  
2133 section, to read:

2134 604.15 Dealers in agricultural products; definitions.—For  
2135 the purpose of ss. 604.15-604.34, the following words and terms,  
2136 when used, shall be construed to mean:

580-04107-09

2009868c2

2137 (1) "Agricultural products" means the natural products of  
2138 the farm, nursery, grove, orchard, vineyard, garden, and apiary  
2139 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;  
2140 livestock; milk and milk products; poultry and poultry products;  
2141 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*  
2142 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety  
2143 Persian, Tahiti, Bearss, or Florida Key limes); and any other  
2144 nonexempt agricultural products produced in the state, except  
2145 tobacco, sugarcane, tropical foliage, timber and timber  
2146 byproducts, forest products as defined in s. 591.17, and citrus  
2147 other than limes.

2148 (11) "Responsible position" means a position within the  
2149 business of a dealer in agricultural products that has the  
2150 authority to negotiate or make the purchase of agricultural  
2151 products on behalf of the dealer's business or has principal  
2152 active management authority over the business decisions,  
2153 actions, and activities of the dealer's business in this state.

2154 Section 62. Section 604.19, Florida Statutes, is amended to  
2155 read:

2156 604.19 License; fee; bond; certificate of deposit;  
2157 penalty.—Unless the department refuses the application on one or  
2158 more of the grounds provided in this section, it shall issue to  
2159 an applicant, upon the payment of required fees and the  
2160 execution and delivery of a bond or certificate of deposit as  
2161 provided in this section, a state license entitling the  
2162 applicant to conduct business as a dealer in agricultural  
2163 products for a 1-year period to coincide with the effective  
2164 period of the bond or certificate of deposit furnished by the  
2165 applicant. During the 1-year period covered by a license, if the

580-04107-09

2009868c2

2166 supporting surety bond or certificate of deposit is canceled for  
2167 any reason, the license shall automatically expire on the date  
2168 the surety bond or certificate of deposit terminates, unless an  
2169 acceptable replacement is in effect before the date of  
2170 termination so that continual coverage occurs for the remaining  
2171 period of the license. A surety company shall give the  
2172 department a 30-day written notice of cancellation by certified  
2173 mail in order to cancel a bond. Cancellation of a bond or  
2174 certificate of deposit does ~~shall~~ not relieve a surety company  
2175 or financial institution of liability for purchases or sales  
2176 occurring while the bond or certificate of deposit was in  
2177 effect. The license fee, which must be paid for the principal  
2178 place of business for a dealer in agricultural products, shall  
2179 be based upon the amount of the dealer's surety bond or  
2180 certificate of deposit furnished by each dealer under the  
2181 provisions of s. 604.20 and may not exceed \$500. For each  
2182 additional place in which the applicant desires to conduct  
2183 business and which the applicant names in the application, the  
2184 additional license fee must be paid but may not exceed \$100  
2185 annually. If a ~~Should any~~ dealer in agricultural products ~~fails,~~  
2186 ~~refuses, or neglects fail, refuse, or neglect~~ to apply and  
2187 qualify for the renewal of a license on or before ~~its the date~~  
2188 ~~of expiration date thereof,~~ a penalty not to exceed \$100 shall  
2189 apply to and be added to the ~~original~~ license fee for the  
2190 principal place of business and to the license fee for each  
2191 additional place of business named in the application and shall  
2192 be paid by the applicant before the renewal license may be  
2193 issued. The department by rule shall prescribe fee amounts  
2194 sufficient to fund ss. 604.15-604.34.

580-04107-09

2009868c2

2195 Section 63. Subsections (1) and (4) of section 604.20,  
2196 Florida Statutes, are amended to read:

2197 604.20 Bond or certificate of deposit prerequisite; amount;  
2198 form.—

2199 (1) Before any license is issued, the applicant therefor  
2200 shall make and deliver to the department a surety bond or  
2201 certificate of deposit in the amount of at least \$5,000 or in  
2202 such greater amount as the department may determine. No bond or  
2203 certificate of deposit may be in an amount less than \$5,000. The  
2204 penal sum of the bond or certificate of deposit to be furnished  
2205 to the department by an applicant for license as a dealer in  
2206 agricultural products shall be in an amount equal to twice the  
2207 average of the monthly dollar amounts ~~amount~~ of agricultural  
2208 products handled for a Florida producer or a producer's agent or  
2209 representative, by purchase or otherwise, ~~during the month of~~  
2210 ~~maximum transaction in such products~~ during the preceding 12-  
2211 month period. Only those months in which the applicant handled,  
2212 by purchase or otherwise, amounts equal to or greater than  
2213 \$1,000 shall be used to calculate the penal sum of the required  
2214 bond or certificate of deposit. An applicant for license who has  
2215 not handled agricultural products for a Florida producer or a  
2216 producer's agent or representative, by purchase or otherwise,  
2217 during the preceding 12-month period shall furnish a bond or  
2218 certificate of deposit in an amount equal to twice the estimated  
2219 average of the monthly dollar amounts ~~amount~~ of such  
2220 agricultural products to be handled, by purchase or otherwise,  
2221 ~~during the month of maximum transaction~~ during the next  
2222 immediate 12 months. Only those months in which the applicant  
2223 anticipates handling, by purchase or otherwise, amounts equal to

580-04107-09

2009868c2

2224 or greater than \$1,000 shall be used to calculate the penal sum  
2225 of the required bond or certificate of deposit. Such bond or  
2226 certificate of deposit shall be provided or assigned in the  
2227 exact name in which the dealer will conduct business subject to  
2228 the provisions of ss. 604.15-604.34. Such bond must be executed  
2229 by a surety company authorized to transact business in the  
2230 state. For the purposes of ss. 604.19-604.21, the term  
2231 "certificate of deposit" means a certificate of deposit at any  
2232 recognized financial institution doing business in the United  
2233 States. No certificate of deposit may be accepted in connection  
2234 with an application for a dealer's license unless the issuing  
2235 institution is properly insured by either the Federal Deposit  
2236 Insurance Corporation or the Federal Savings and Loan Insurance  
2237 Corporation. Such bond or any certificate of deposit assignment  
2238 or agreement shall be upon a form prescribed or approved by the  
2239 department and shall be conditioned to secure the faithful  
2240 accounting for and payment, in the manner prescribed by s.  
2241 604.21(9), to producers or their agents or representatives of  
2242 the proceeds of all agricultural products handled or purchased  
2243 by such dealer, ~~and~~ to secure payment to dealers who sell  
2244 agricultural products to such dealer, and to pay any claims or  
2245 costs ordered under s. 604.21 as the result of a complaint. Such  
2246 bond or certificate of deposit assignment or agreement shall  
2247 include terms binding the instrument to the Commissioner of  
2248 Agriculture. A certificate of deposit shall be presented with an  
2249 assignment of applicant's rights in the certificate in favor of  
2250 the Commissioner of Agriculture on a form prescribed by the  
2251 department and with a letter from the issuing institution  
2252 acknowledging that the assignment has been properly recorded on

580-04107-09

2009868c2

2253 the books of the issuing institution and will be honored by the  
2254 issuing institution. Such assignment shall be irrevocable while  
2255 the dealer's license is in effect and for an additional period  
2256 of 6 months after the termination or expiration of the dealer's  
2257 license, provided no complaint is pending against the licensee.  
2258 If a complaint is pending, the assignment shall remain in effect  
2259 until all actions on the complaint have been finalized. The  
2260 certificate of deposit may be released by the assignee of the  
2261 financial institution to the licensee or the licensee's  
2262 successors, assignee, or heirs if no claims are pending against  
2263 the licensee before the department at the conclusion of 6 months  
2264 after the last effective date of the license. No certificate of  
2265 deposit shall be accepted that contains any provision that would  
2266 give the issuing institution any prior rights or claim on the  
2267 proceeds or principal of such certificate of deposit. The  
2268 department shall determine by rule the maximum amount of bond or  
2269 certificate of deposit required of a dealer and whether an  
2270 annual bond or certificate of deposit will be required.

2271 (4) The department may issue a conditional license to an  
2272 applicant who is unable to provide a single bond or certificate  
2273 of deposit in the full amount required by the calculation in  
2274 subsection (1). The conditional license shall remain in effect  
2275 for a 1-year period to coincide with the effective period of the  
2276 bond or certificate of deposit furnished by the applicant. The  
2277 applicant must provide at least the minimum \$5,000 bond or  
2278 certificate of deposit as provided in subsection (1) together  
2279 with documentation from each of three separate bonding companies  
2280 denying the applicants request for a surety bond in the full  
2281 amount required in subsection (1) and one of the following:



580-04107-09

2009868c2

2282 (a) A notarized affidavit limiting the handling of  
2283 agricultural products, by purchase or otherwise, during their  
2284 largest month to a minimum of one-half the amount of the bond or  
2285 certificate of deposit provided by the applicant;

2286 (b) A notarized affidavit stating that any subject  
2287 agricultural products, handled by purchase or otherwise,  
2288 exceeding one-half of the amount of the bond or certificate of  
2289 deposit will be handled under the exemption provisions set forth  
2290 in s. 604.16(2); or

2291 (c) A second bond or certificate of deposit in such an  
2292 amount that, when the penal sum of the second bond or  
2293 certificate of deposit is added to the penal sum of the first  
2294 bond or certificate of deposit, the combined penal sum will  
2295 equal twice the dollar amount of agricultural products handled  
2296 for a Florida producer or a producer's agent or representative,  
2297 by purchase or otherwise, during the month of maximum  
2298 transaction in such products during the preceding 12-month  
2299 period.

2300  
2301 The department or its agents may require from any licensee who  
2302 is issued a conditional license verified statements of the  
2303 volume of the licensee's business or may review the licensee's  
2304 records at the licensee's place of business during normal  
2305 business hours to determine the licensee's adherence to the  
2306 conditions of the license. The failure of a licensee to furnish  
2307 such statement or to make such records available shall be cause  
2308 for suspension of the licensee's conditional license. If the  
2309 department finds such failure to be willful, the conditional  
2310 license may be revoked.

580-04107-09

2009868c2

2311 Section 64. Section 604.25, Florida Statutes, is amended to  
2312 read:

2313 604.25 Refusal to grant, or suspension or revocation of,  
2314 license.—

2315 (1) The department may deny, refuse to renew, ~~decline to~~  
2316 ~~grant a license~~ or ~~may~~ suspend or revoke a license ~~already~~  
2317 ~~granted~~ if the applicant or licensee has:

2318 (a) Suffered a monetary judgment entered against the  
2319 applicant or licensee ~~upon which is execution has been returned~~  
2320 unsatisfied;

2321 (b) Made false charges for handling or services rendered;

2322 (c) Failed to account promptly and properly or to make  
2323 settlements with any producer;

2324 (d) Made any false statement or statements as to condition,  
2325 quality, or quantity of goods received or held for sale when the  
2326 true condition, quality, or quantity could have been ascertained  
2327 by reasonable inspection;

2328 (e) Made any false or misleading statement or statements as  
2329 to market conditions or service rendered;

2330 (f) Been guilty of a fraud in the attempt to procure, or  
2331 the procurement of, a license;

2332 (g) Directly or indirectly sold agricultural products  
2333 received on consignment or on a net return basis for her or his  
2334 own account, without prior authority from the producer  
2335 consigning the same, or without notifying such producer;

2336 (h) Employed a person in a responsible position ~~a person,~~  
2337 or has an owner, officer, director, general or managing partner,  
2338 or other similarly situated person, who is in or has held a  
2339 similar position with any entity that ~~of a corporation, who has~~

580-04107-09

2009868c2

2340 failed to fully comply with an order of the department, has not  
 2341 satisfied a civil judgment held by the department, has pending  
 2342 any administrative or civil enforcement action by the  
 2343 department, or has pending any criminal charges pursuant to s.  
 2344 604.30 at any time within 1 year after issuance;

2345 (i) Violated any statute or rule relating to the purchase  
 2346 or sale of any agricultural product, whether or not such  
 2347 transaction is subject to the provisions of this chapter; ~~or~~

2348 (j) Failed to submit to the department an application,  
 2349 appropriate license fees, and an acceptable surety bond or  
 2350 certificate of deposit; or-

2351 ~~(k)(2) Failed~~ If a licensee fails or refused refuses to  
 2352 comply in full with an order of the department or failed to  
 2353 satisfy a civil judgment held by the department, her or his  
 2354 license may be suspended or revoked, in which case she or he  
 2355 shall not be eligible for license for a period of 1 year or  
 2356 until she or he has fully complied with the order of the  
 2357 department.

2358 ~~(3) No person, or officer of a corporation, whose license~~  
 2359 ~~has been suspended or revoked for failure to comply with an~~  
 2360 ~~order of the department may hold a responsible position with a~~  
 2361 ~~licensee for a period of 1 year or until the order of the~~  
 2362 ~~department has been fully complied with.~~

2363 Section 65. Subsections (18) and (19) of section 616.242,  
 2364 Florida Statutes, are renumbered as subsections (19) and (20),  
 2365 respectively, and a new subsection (18) is added to that section  
 2366 to read:

2367 616.242 Safety standards for amusement rides.-

2368 (18) STOP-OPERATION ORDERS.-If an owner or amusement ride

580-04107-09

2009868c2

2369 fails to comply with this chapter or any rule adopted under this  
2370 chapter, the department may issue a stop-operation order.

2371 Section 66. Paragraph (c) of subsection (5) of section  
2372 790.06, Florida Statutes, is amended to read:

2373 790.06 License to carry concealed weapon or firearm.-

2374 (5) The applicant shall submit to the Department of  
2375 Agriculture and Consumer Services:

2376 (c) A full set of fingerprints of the applicant  
2377 administered by a law enforcement agency or the Division of  
2378 Licensing of the Department of Agriculture and Consumer  
2379 Services.

2380 Section 67. Section 849.094, Florida Statutes, is amended  
2381 to read:

2382 849.094 Game promotion in connection with sale of consumer  
2383 products or services.-

2384 (1) As used in this section, the term:

2385 (a) "Commencement of the game promotion" means the date the  
2386 game promotion begins as disclosed in the filing made to the  
2387 department pursuant to s. 849.094(3).

2388 (b) "Department" means the Department of Agriculture and  
2389 Consumer Services.

2390 (c) ~~(a)~~ "Game promotion" means, but is not limited to, a  
2391 contest, game of chance, or gift enterprise, conducted within or  
2392 throughout the state and other states in connection with the  
2393 sale of consumer products or services, and in which the elements  
2394 of chance and prize are present. However, "game promotion" shall  
2395 not be construed to apply to bingo games conducted pursuant to  
2396 s. 849.0931.

2397 (d) "In connection with the sale of consumer products or

580-04107-09

2009868c2

2398 services" means the completion of a retail sales transaction  
2399 between a merchant or service provider and an end-use purchaser  
2400 of the product or service. Any required fee, charge, or payment  
2401 for an additional opportunity to participate in the game  
2402 promotion before or after the sale shall not be deemed in  
2403 connection with the sale of consumer products or services.

2404 (e) ~~(b)~~ "Operator" means any person, firm, corporation, or  
2405 association or agent or employee thereof who promotes, sponsors,  
2406 administers, operates, or conducts a game promotion, ~~except any~~  
2407 ~~charitable nonprofit organization.~~

2408 (2) It is unlawful for any operator:

2409 (a) To design, engage in, promote, or conduct such a game  
2410 promotion, in connection with the promotion or sale of consumer  
2411 products or services, wherein the winner may be predetermined or  
2412 the game may be manipulated or rigged so as to:

2413 1. Allocate a winning game or any portion thereof to  
2414 certain lessees, agents, or franchises; or

2415 2. Allocate a winning game or part thereof to a particular  
2416 period of the game promotion or to a particular geographic area;

2417 (b) Arbitrarily to remove, disqualify, disallow, or reject  
2418 any entry;

2419 (c) To fail to award prizes offered;

2420 (d) To print, publish, or circulate literature or  
2421 advertising material used in connection with such game  
2422 promotions which is false, deceptive, or misleading; or

2423 (e) To require an entry fee, payment, or proof of purchase  
2424 as a condition of entering a game promotion.

2425 (3) (a) Except as provided in paragraph (11) (c), the  
2426 operator of a game promotion in which the total announced value

580-04107-09

2009868c2

2427 of the prizes offered is greater than \$5,000 shall file with the  
2428 department ~~of Agriculture and Consumer Services~~ a copy of the  
2429 rules and regulations of the game promotion and a list of all  
2430 prizes and prize categories offered at least 7 days before the  
2431 commencement of the game promotion. Such rules and regulations  
2432 may not thereafter be changed, modified, or altered. The  
2433 operator of a game promotion shall conspicuously post the rules  
2434 and regulations of such game promotion in each and every retail  
2435 outlet or place where such game promotion may be played or  
2436 participated in by the public and shall also publish the rules  
2437 and regulations in all advertising copy used in connection  
2438 therewith. However, such advertising copy need only include the  
2439 material terms of the rules and regulations if the advertising  
2440 copy includes a website address, a toll-free telephone number,  
2441 or a mailing address where the full rules and regulations may be  
2442 viewed, heard, or obtained for the full duration of the game  
2443 promotion. Such disclosures must be legible. Radio and  
2444 television announcements may indicate that the rules and  
2445 regulations are available at retail outlets or from the operator  
2446 of the promotion. A nonrefundable filing fee of \$100 shall  
2447 accompany each filing and shall be used to pay the costs  
2448 incurred in administering and enforcing the provisions of this  
2449 section. The department may not accept a filing from any  
2450 operator, person, firm, corporation, association, agent, or  
2451 employee against whom there has been a criminal or civil  
2452 adjudication, or who has not satisfied a civil fine, for any  
2453 violation of this section.

2454 (b) Each operator of an electronic game promotion shall  
2455 file with the department a certification by an independent

580-04107-09

2009868c2

2456 testing laboratory that such electronic game promotion contains  
2457 a finite number of entries at least 7 days before the  
2458 commencement of the game promotion.

2459 (4) (a) Except as provided in paragraph (11) (c), every  
2460 operator of ~~such~~ a game promotion in which the total announced  
2461 value of the prizes offered is greater than \$5,000 shall  
2462 establish a trust account, in a national or state-chartered  
2463 financial institution, with a balance equal to ~~sufficient to pay~~  
2464 ~~or purchase~~ the total value of all prizes offered. On a form  
2465 supplied by the department ~~of Agriculture and Consumer Services,~~  
2466 an official of the financial institution holding the trust  
2467 account shall set forth the account number and the dollar amount  
2468 of the trust account, the identity of the entity or individual  
2469 establishing the trust account, and the name of the game  
2470 promotion for which the trust account has been established. Such  
2471 form shall be filed with the department ~~of Agriculture and~~  
2472 ~~Consumer Services~~ at least 7 days in advance of the commencement  
2473 of the game promotion. In lieu of establishing such trust  
2474 account, the operator may obtain a surety bond from a surety  
2475 authorized to do business in this state in an amount equivalent  
2476 to the total value of all prizes offered; and such bond shall be  
2477 filed with the department ~~of Agriculture and Consumer Services~~  
2478 at least 7 days in advance of the commencement of the game  
2479 promotion.

2480 1. The moneys held in the trust account may be withdrawn in  
2481 order to pay the prizes offered only upon written approval by  
2482 ~~certification to~~ the department. This approval shall be provided  
2483 only after the operator certifies to the department of  
2484 ~~Agriculture and Consumer Services~~ of the name and address of

580-04107-09

2009868c2

2485 each the winner, ~~or winners~~ and the amount of the prize or  
2486 prizes to be awarded, and the value of each prize thereof.

2487 2. If the operator of a game promotion has obtained a  
2488 surety bond in lieu of establishing a trust account, the amount  
2489 of the surety bond shall equal at all times the total amount of  
2490 the prizes offered. The bond shall be in favor of the department  
2491 for the use and benefit of any consumer who qualifies for the  
2492 award of a prize under the rules and regulations of the game  
2493 promotion but who does not receive the prize awarded. Such bond  
2494 shall be applicable and liable for payment of the claims duly  
2495 adjudicated by order of the department. The proceedings to  
2496 adjudicate such claims shall be conducted in accordance with ss.  
2497 120.569 and 120.57.

2498 (b) The department ~~of Agriculture and Consumer Services~~ may  
2499 waive the provisions of this subsection for any operator who has  
2500 conducted game promotions in the state for not less than 5  
2501 consecutive years and who has not had any civil, criminal, or  
2502 administrative action instituted against him or her by the state  
2503 or an agency of the state for violation of this section within  
2504 that 5-year period. Such waiver may be revoked upon the  
2505 commission of a violation of this section by such operator, as  
2506 determined by the department ~~of Agriculture and Consumer~~  
2507 ~~Services~~.

2508 (5) Except as provided in paragraph (11)(c), every operator  
2509 of a game promotion in which the total announced value of the  
2510 prizes offered is greater than \$5,000 shall provide the  
2511 department ~~of Agriculture and Consumer Services~~ with a certified  
2512 list of the names and addresses of all persons, whether from  
2513 this state or from another state, who have won prizes that ~~which~~



580-04107-09

2009868c2

2514 have a value of more than \$25, the value of such prizes, and the  
2515 dates when the prizes were won within 60 days after such winners  
2516 have been finally determined. The date for the final  
2517 determination of winners shall be 60 days after the ending date  
2518 of the game promotion disclosed in the original filing under  
2519 subsection (3). The operator shall provide a copy of the list of  
2520 winners, without charge, to any person who requests it. In lieu  
2521 of the foregoing, the operator of a game promotion may, at his  
2522 or her option, publish the same information about the winners in  
2523 a Florida newspaper of general circulation within 60 days after  
2524 such winners have been determined and shall provide to the  
2525 department ~~of Agriculture and Consumer Services~~ a certified copy  
2526 of the publication containing the information about the winners.  
2527 The operator of a game promotion is not required to notify a  
2528 winner by mail or by telephone when the winner is already in  
2529 possession of a game card from which the winner can determine  
2530 that he or she has won a designated prize. All winning entries  
2531 shall be held by the operator for a period of 90 days after the  
2532 close or completion of the game.

2533 (6) The department ~~of Agriculture and Consumer Services~~  
2534 shall keep the certified list of winners for a period of at  
2535 least 6 months after receipt of the certified list. The  
2536 department thereafter may dispose of all records and lists.

2537 (7) No operator shall force, directly or indirectly, a  
2538 lessee, agent, or franchise dealer to purchase or participate in  
2539 any game promotion. For the purpose of this section, coercion or  
2540 force shall be presumed in these circumstances in which a course  
2541 of business extending over a period of 1 year or longer is  
2542 materially changed coincident with a failure or refusal of a

580-04107-09

2009868c2

2543 lessee, agent, or franchise dealer to participate in such game  
2544 promotions. Such force or coercion shall further be presumed  
2545 when an operator advertises generally that game promotions are  
2546 available at its lessee dealers or agent dealers.

2547 (8) (a) The department ~~of Agriculture and Consumer Services~~  
2548 shall have the power to adopt ~~promulgate~~ such rules and  
2549 regulations respecting the operation of game promotions as it  
2550 may deem advisable.

2551 (b) Whenever the department ~~of Agriculture and Consumer~~  
2552 ~~Services~~ or the Department of Legal Affairs has reason to  
2553 believe that a game promotion is being operated in violation of  
2554 this section, it may bring an action in the circuit court of any  
2555 judicial circuit in which the game promotion is being operated  
2556 in the name and on behalf of the people of the state against any  
2557 operator thereof to enjoin the continued operation of such game  
2558 promotion anywhere within the state.

2559 (9) (a) Any person, firm, or corporation, or association or  
2560 agent or employee thereof, who engages in any acts or practices  
2561 stated in this section to be unlawful, or who violates any of  
2562 the rules and regulations made pursuant to this section, is  
2563 guilty of a misdemeanor of the second degree, punishable as  
2564 provided in s. 775.082 or s. 775.083.

2565 (b) Any person, firm, corporation, association, agent, or  
2566 employee who violates any provision of this section or any of  
2567 the rules and regulations made pursuant to this section shall be  
2568 liable for a civil penalty of not more than \$1,000 for each such  
2569 violation, which shall accrue to the state and may be recovered  
2570 in a civil action brought by the department ~~of Agriculture and~~  
2571 ~~Consumer Services~~ or the Department of Legal Affairs.

580-04107-09

2009868c2

2572 (10) This section does not apply to actions or transactions  
2573 regulated by the Department of Business and Professional  
2574 Regulation ~~or to the activities of nonprofit organizations or to~~  
2575 ~~any other organization engaged in any enterprise other than the~~  
2576 ~~sale of consumer products or services.~~ Subsections (3), (4),  
2577 (5), (6), and (7) and paragraph (8) (a) and any of the rules made  
2578 pursuant thereto do not apply to television or radio  
2579 broadcasting companies licensed by the Federal Communications  
2580 Commission.

2581 (11) (a) The provisions of s. 551.102(8), s. 849.09, s.  
2582 849.15, or s. 849.16 do not prohibit the use of electronic  
2583 devices or computer terminals that have video display monitors  
2584 to conduct or display the results of a game promotion otherwise  
2585 permitted by this section.

2586 (b) Each electronic device or computer terminal that has a  
2587 video display monitor provided by the operator for consumers to  
2588 participate in a game promotion shall be considered a separate  
2589 game promotion for purposes of the section. Its physical  
2590 location shall be stated in the filing specified in subsection  
2591 (3), and a separate nonrefundable filing fee shall be paid for  
2592 each device or terminal.

2593 (c) The operator of a game promotion that uses an  
2594 electronic device or computer terminal having a video display  
2595 monitor provided by the operator for use by consumers shall  
2596 comply with all requirements of subsections (3), (4), and (5)  
2597 regardless of the total announced value of the prizes offered.

2598 Section 68. Sections 570.071 and 570.901, Florida Statutes,  
2599 are repealed.

2600 Section 69. This act shall take effect July 1, 2009.