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CS/HB 7209

2011 Legislature

1                                   A bill to be entitled  
2           An act relating to the consumer services functions of the  
3           Department of Agriculture and Consumer Services; amending  
4           s. 320.90, F.S.; transferring responsibility for  
5           distribution of a motor vehicle consumer's rights pamphlet  
6           from the department to the Department of Highway Safety  
7           and Motor Vehicles; amending s. 493.6105, F.S.; revising  
8           the application requirements and procedures for certain  
9           private investigator, private security, or repossession  
10          service; deleting a requirement that certain applicants  
11          submit photographs with their applications; revising the  
12          certifications that a person applying for a Class "K"  
13          firearms instructor license must possess; amending s.  
14          493.6106, F.S.; revising the citizenship or immigration  
15          requirements for licenses issued by the department;  
16          prohibiting the licensure of applicants for a Class "G"  
17          statewide firearm license or Class "K" firearms instructor  
18          license who are prohibited by law from purchasing or  
19          possessing firearms; requiring that private investigative,  
20          private security, and recovery agencies notify the  
21          department of changes to their branch office locations;  
22          making grammatical and technical changes; amending s.  
23          493.6107, F.S.; revising requirements for the method of  
24          payment of license fees for certain licensees; amending s.  
25          493.6108, F.S.; requiring the department to investigate  
26          the mental history and current mental and emotional  
27          fitness of applicants for a Class "K" firearms instructor  
28          license; amending s. 493.6111, F.S.; revising the validity

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29 | period for Class "K" firearms instructor licenses;  
30 | requiring a security officer school or recovery agent  
31 | school to obtain written authorization from the department  
32 | before operating under a fictitious name; specifying that  
33 | a licensee may not operate under more than one fictitious  
34 | name; amending s. 493.6113, F.S.; deleting a requirement  
35 | that Class "A" private investigative agency licensees and  
36 | Class "R" recovery agency licensees provide evidence of  
37 | certain insurance coverage to renew a license; requiring a  
38 | Class "K" firearms instructor licensee to submit proof of  
39 | certification to provide firearms instruction; amending s.  
40 | 493.6115, F.S.; conforming cross-references; amending s.  
41 | 493.6118, F.S.; authorizing the department to take  
42 | disciplinary action against a Class "G" statewide firearms  
43 | licensee or applicant or a Class "K" firearms instructor  
44 | licensee or applicant if the person is prohibited by law  
45 | from purchasing or possessing a firearm; amending s.  
46 | 493.6121, F.S.; deleting a provision authorizing the  
47 | department to have access to certain criminal history  
48 | information of the purchaser of a firearm; amending s.  
49 | 493.6202, F.S.; revising requirements for the method of  
50 | payment of examination and license fees for certain  
51 | licensees; amending s. 493.6203, F.S.; providing that  
52 | experience as a bodyguard does not qualify as experience  
53 | or training for purposes of a Class "MA" or Class "C"  
54 | license; requiring an initial applicant for a Class "CC"  
55 | license to complete specified training courses; conforming  
56 | a cross-reference; amending s. 493.6302, F.S.; revising

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57 | requirements for the method of payment of license fees for  
58 | certain licensees; amending s. 493.6303, F.S.; requiring  
59 | an applicant for an initial Class "D" security officer  
60 | license to complete specified training courses; amending  
61 | s. 493.6304, F.S.; requiring an application for a security  
62 | officer school or training facility to be verified under  
63 | oath; amending ss. 493.6401 and 493.6402, F.S.; renaming  
64 | repossessioners as "recovery agents"; revising requirements  
65 | for the method of payment of the license fees for certain  
66 | licensees; amending s. 493.6406, F.S.; requiring recovery  
67 | agent schools or instructors to be licensed by the  
68 | department to offer training to Class "E" licensees and  
69 | applicants; revising application requirements for recovery  
70 | agent school and instructor licenses; amending s. 500.03,  
71 | F.S.; providing and revising definitions for purposes of  
72 | the Florida Food Safety Act; amending s. 500.121, F.S.;  
73 | providing penalties for food safety violations committed  
74 | by cottage food operations; creating s. 500.80, F.S.;  
75 | exempting cottage food operations from food permitting  
76 | requirements; limiting the annual gross sales of cottage  
77 | food operations and the methods by which cottage food  
78 | products may be sold or offered for sale; requiring  
79 | certain packaging and labeling of cottage food products;  
80 | limiting the sale of cottage food products to certain  
81 | locations; providing for application; authorizing the  
82 | Department of Agriculture and Consumer Services to  
83 | investigate complaints and enter into the premises of a  
84 | cottage food operation; amending s. 501.145, F.S.;

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85 deleting authority for the department to bring actions for  
86 injunctive relief under the Bedding Label Act; deleting  
87 the definitions of certain terms to conform; amending s.  
88 501.160, F.S.; deleting authorization for the department  
89 to enforce certain prohibitions against unconscionable  
90 practices during a declared state of emergency; amending  
91 s. 525.01, F.S.; revising requirements for petroleum fuel  
92 affidavits; amending s. 526.06, F.S.; revising prohibited  
93 acts related to certain mixing, blending, compounding, or  
94 adulterating of liquid fuels; deleting certain provisions  
95 authorizing the sale of ethanol-blended fuels for use in  
96 motor vehicles; amending s. 539.001, F.S.; correcting a  
97 reference to a local business tax receipt; amending ss.  
98 681.102, 681.103, 681.108, 681.109, 681.1095, 681.1096,  
99 681.112, and 681.117, F.S.; transferring the duties of the  
100 Division of Consumer Services of the Department of  
101 Agriculture and Consumer Services for enforcement of the  
102 Motor Vehicle Warranty Enforcement Act and related to the  
103 Florida New Motor Vehicle Arbitration Board to the  
104 Department of Legal Affairs; conforming provisions;  
105 revising procedures and notice requirements for  
106 arbitration disputes; authorizing the Department of Legal  
107 Affairs to adopt rules; providing an effective date.

108  
109 Be It Enacted by the Legislature of the State of Florida:

110  
111 Section 1. Section 320.90, Florida Statutes, is amended to  
112 read:

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113           320.90 Notification of consumer's rights.—The department  
114 shall develop a motor vehicle consumer's rights pamphlet which  
115 shall be distributed free of charge ~~by the Department of~~  
116 ~~Agriculture and Consumer Services~~ to the motor vehicle owner  
117 upon request. Such pamphlet must contain information relating to  
118 odometer fraud and provide a summary of the rights and remedies  
119 available to all purchasers of motor vehicles.

120           Section 2. Section 493.6105, Florida Statutes, is amended  
121 to read:

122           493.6105 Initial application for license.—

123           (1) Each individual, partner, or principal officer in a  
124 corporation, shall file with the department a complete  
125 application accompanied by an application fee not to exceed \$60,  
126 except that the applicant for a Class "D" or Class "G" license  
127 is shall not be required to submit an application fee. The  
128 application fee is shall not be refundable.

129           (a) The application submitted by any individual, partner,  
130 or corporate officer must shall be approved by the department  
131 before the ~~prior to that~~ individual, partner, or corporate  
132 officer assumes assuming his or her duties.

133           (b) Individuals who invest in the ownership of a licensed  
134 agency, but do not participate in, direct, or control the  
135 operations of the agency are shall not be required to file an  
136 application.

137           (2) Each application must shall be signed and verified by  
138 the individual under oath as provided in s. 92.525 ~~and shall be~~  
139 ~~notarized~~.

140           (3) The application must shall contain the following

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141 information concerning the individual signing the application  
 142 ~~same:~~  
 143 (a) Name and any aliases.  
 144 (b) Age and date of birth.  
 145 (c) Place of birth.  
 146 (d) Social security number or alien registration number,  
 147 whichever is applicable.  
 148 (e) Current ~~Present~~ residence address and mailing address  
 149 ~~his or her residence addresses within the 5 years immediately~~  
 150 ~~preceding the submission of the application.~~  
 151 ~~(f) Occupations held presently and within the 5 years~~  
 152 ~~immediately preceding the submission of the application.~~  
 153 (f)(g) A statement of all criminal convictions, findings  
 154 of guilt, and pleas of guilty or nolo contendere, regardless of  
 155 adjudication of guilt. An applicant for a Class "G" or Class "K"  
 156 license who is younger than 24 years of age shall also include a  
 157 statement regarding any finding of having committed a delinquent  
 158 act in any state, territory, or country which would be a felony  
 159 if committed by an adult and which is punishable by imprisonment  
 160 for a term exceeding 1 year.  
 161 (g) One passport-type color photograph taken within the 6  
 162 months immediately preceding submission of the application.  
 163 (h) A statement whether he or she has ever been  
 164 adjudicated incompetent under chapter 744.  
 165 (i) A statement whether he or she has ever been committed  
 166 to a mental institution under chapter 394.  
 167 (j) A full set of fingerprints on a card provided by the  
 168 department and a fingerprint fee to be established by rule of

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169 the department based upon costs determined by state and federal  
170 agency charges and department processing costs. An applicant who  
171 has, within the immediately preceding 6 months, submitted a  
172 fingerprint card and fee for licensing purposes under this  
173 chapter is ~~shall~~ not be required to submit another fingerprint  
174 card or fee.

175 (k) A personal inquiry waiver that ~~which~~ allows the  
176 department to conduct necessary investigations to satisfy the  
177 requirements of this chapter.

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

182 ~~(4) In addition to the application requirements outlined~~  
183 ~~in subsection (3), the applicant for a Class "C," Class "CC,"~~  
184 ~~Class "E," Class "EE," or Class "G" license shall submit two~~  
185 ~~color photographs taken within the 6 months immediately~~  
186 ~~preceding the submission of the application, which meet~~  
187 ~~specifications prescribed by rule of the department. All other~~  
188 ~~applicants shall submit one photograph taken within the 6 months~~  
189 ~~immediately preceding the submission of the application.~~

190 (4)~~(5)~~ In addition to the application requirements  
191 outlined under subsection (3), the applicant for a Class "C,"  
192 Class "E," Class "M," Class "MA," Class "MB," or Class "MR"  
193 license must ~~shall~~ include a statement on a form provided by the  
194 department of the experience that ~~which~~ he or she believes will  
195 qualify him or her for such license.

196 (5)~~(6)~~ In addition to the requirements outlined in

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197 subsection (3), an applicant for a Class "G" license must ~~shall~~  
 198 satisfy minimum training criteria for firearms established by  
 199 rule of the department, which training criteria includes ~~shall~~  
 200 ~~include~~, but is not limited to, 28 hours of range and classroom  
 201 training taught and administered by a Class "K" licensee;  
 202 however, no more than 8 hours of such training shall consist of  
 203 range training. If the applicant submits ~~can show~~ proof that he  
 204 or she is an active law enforcement officer currently certified  
 205 under the Criminal Justice Standards and Training Commission or  
 206 has completed the training required for that certification  
 207 within the last 12 months, or if the applicant submits one of  
 208 the certificates specified in paragraph (6)(a) ~~(7)(a)~~, the  
 209 department may waive the foregoing firearms training  
 210 requirement.

211 (6)(7) In addition to the requirements under subsection  
 212 (3), an applicant for a Class "K" license must ~~shall~~:

213 (a) Submit one of the following ~~certificates~~:

214 1. The Florida Criminal Justice Standards and Training  
 215 Commission Instructor Firearms Instructor's Certificate and  
 216 written confirmation by the commission that the applicant  
 217 possesses an active firearms certification.

218 ~~2. The National Rifle Association Police Firearms~~  
 219 ~~Instructor's Certificate.~~

220 ~~2.3.~~ The National Rifle Association Private Security  
 221 Firearm Instructor Firearms Instructor's Certificate.

222 3.4. A firearms instructor instructor's certificate issued  
 223 by from a federal law enforcement agency, state, county, or  
 224 municipal police academy in this state recognized as such by the



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225 ~~Criminal Justice Standards and Training Commission or by the~~  
 226 ~~Department of Education.~~

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

231 (7)~~(8)~~ In addition to the application requirements for  
 232 individuals, partners, or officers outlined under subsection  
 233 (3), the application for an agency license must ~~shall~~ contain  
 234 the following information:

235 (a) The proposed name under which the agency intends to  
 236 operate.

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

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

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

245 (8)~~(9)~~ Upon submission of a complete application, a Class  
 246 "CC," Class "C," Class "D," Class "EE," Class "E," Class "M,"  
 247 Class "MA," Class "MB," or Class "MR" applicant may commence  
 248 employment or appropriate duties for a licensed agency or branch  
 249 office. However, the Class "C" or Class "E" applicant must work  
 250 under the direction and control of a sponsoring licensee while  
 251 his or her application is being processed. If the department  
 252 denies application for licensure, the employment of the

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253 applicant must be terminated immediately, unless he or she  
254 performs only unregulated duties.

255 Section 3. Paragraph (f) of subsection (1) and paragraph  
256 (a) of subsection (2) of section 493.6106, Florida Statutes, are  
257 amended, and paragraph (g) is added to subsection (1) of that  
258 section, to read:

259 493.6106 License requirements; posting.—

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

261 (f) Be a citizen or permanent legal resident alien of the  
262 United States or have appropriate ~~been granted~~ authorization  
263 issued to seek employment in this country by the United States  
264 ~~Bureau of~~ Citizenship and Immigration Services of the United  
265 States Department of Homeland Security.

266 1. An applicant for a Class "C," Class "CC," Class "D,"  
267 Class "DI," Class "E," Class "EE," Class "M," Class "MA," Class  
268 "MB," Class "MR," or Class "RI" license who is not a United  
269 States citizen must submit proof of current employment  
270 authorization issued by the United States Citizenship and  
271 Immigration Services or proof that she or he is deemed a  
272 permanent legal resident alien by the United States Citizenship  
273 and Immigration Services.

274 2. An applicant for a Class "G" or Class "K" license who  
275 is not a United States citizen must submit proof that she or he  
276 is deemed a permanent legal resident alien by the United States  
277 Citizenship and Immigration Services, together with additional  
278 documentation establishing that she or he has resided in the  
279 state of residence shown on the application for at least 90  
280 consecutive days before the date that the application is

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281 submitted.

282 3. An applicant for an agency or school license who is not  
 283 a United States citizen or permanent legal resident alien must  
 284 submit documentation issued by the United States Citizenship and  
 285 Immigration Services stating that she or he is lawfully in the  
 286 United States and is authorized to own and operate the type of  
 287 agency or school for which she or he is applying. An employment  
 288 authorization card issued by the United States Citizenship and  
 289 Immigration Services is not sufficient documentation.

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

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

297 (a) If an agency or branch office desires to change the  
 298 physical location of the business, as it appears on the ~~agency~~  
 299 license, the department must be notified within 10 days after ~~of~~  
 300 the change, and, except upon renewal, the fee prescribed in s.  
 301 493.6107 must be submitted for each license requiring revision.  
 302 Each license requiring revision must be returned with such  
 303 notification.

304 Section 4. Subsection (3) of section 493.6107, Florida  
 305 Statutes, is amended to read:

306 493.6107 Fees.—

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

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309 department, by electronic funds transfer ~~agency check~~ at the  
310 time the application is approved, except that the applicant for  
311 a Class "G" or Class "M" license must pay the license fee at the  
312 time the application is made. If a license is revoked or denied  
313 or if the application is withdrawn, the license fee is  
314 nonrefundable ~~shall not be refunded~~.

315 Section 5. Subsections (1) and (3) of section 493.6108,  
316 Florida Statutes, are amended to read:

317 493.6108 Investigation of applicants by Department of  
318 Agriculture and Consumer Services.—

319 (1) Except as otherwise provided, ~~prior to the issuance of~~  
320 ~~a license under this chapter,~~ the department must investigate an  
321 ~~shall make an investigation of the~~ applicant for a license under  
322 this chapter before it may issue the license. The investigation  
323 must ~~shall~~ include:

324 (a)1. An examination of fingerprint records and police  
325 records. ~~If~~ ~~When~~ a criminal history record check ~~analysis~~ of any  
326 applicant under this chapter is performed by means of  
327 fingerprint card identification, the time limitations prescribed  
328 by s. 120.60(1) shall be tolled during the time the applicant's  
329 fingerprint card is under review by the Department of Law  
330 Enforcement or the United States Department of Justice, Federal  
331 Bureau of Investigation.

332 2. If a legible set of fingerprints, as determined by the  
333 Department of Law Enforcement or the Federal Bureau of  
334 Investigation, cannot be obtained after two attempts, the  
335 Department of Agriculture and Consumer Services may determine  
336 the applicant's eligibility based upon a criminal history record

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337 | check under the applicant's name conducted by the Department of  
338 | Law Enforcement if the ~~and the Federal Bureau of Investigation.~~  
339 | ~~A set of~~ fingerprints are taken by a law enforcement agency or  
340 | the department and the applicant submits a written statement  
341 | signed by the fingerprint technician or a licensed physician  
342 | stating that there is a physical condition that precludes  
343 | obtaining a legible set of fingerprints or that the fingerprints  
344 | taken are the best that can be obtained ~~is sufficient to meet~~  
345 | ~~this requirement.~~

346 |         (b) An inquiry to determine if the applicant has been  
347 | adjudicated incompetent under chapter 744 or has been committed  
348 | to a mental institution under chapter 394.

349 |         (c) Such other investigation of the individual as the  
350 | department may deem necessary.

351 |         (3) The department must ~~shall~~ also investigate the mental  
352 | history and current mental and emotional fitness of any Class  
353 | "G" or Class "K" applicant, and may deny a Class "G" or Class  
354 | "K" license to anyone who has a history of mental illness or  
355 | drug or alcohol abuse.

356 |         Section 6. Subsections (2) and (4) of section 493.6111,  
357 | Florida Statutes, are amended to read:

358 |         493.6111 License; contents; identification card.—

359 |         (2) Licenses shall be valid for a period of 2 years,  
360 | except for Class "A," Class "B," Class "AB," Class "K," Class  
361 | "R," and branch agency licenses, which shall be valid for a  
362 | period of 3 years.

363 |         (4) Notwithstanding the existence of a valid Florida  
364 | corporate registration, an ~~ne~~ agency or school licensee may not

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365 | conduct activities regulated under this chapter under any  
 366 | fictitious name without prior written authorization from the  
 367 | department to use that name in the conduct of activities  
 368 | regulated under this chapter. The department may not authorize  
 369 | the use of a name that ~~which~~ is so similar to that of a public  
 370 | officer or agency, or of that used by another licensee, that the  
 371 | public may be confused or misled thereby. The authorization for  
 372 | the use of a fictitious name must ~~shall~~ require, as a condition  
 373 | precedent to the use of such name, the filing of a certificate  
 374 | of engaging in business under a fictitious name under s. 865.09.  
 375 | A ~~No~~ licensee may not ~~shall be permitted to~~ conduct business  
 376 | under more than one name except as separately licensed nor shall  
 377 | the license be valid to protect any licensee who is engaged in  
 378 | the business under any name other than that specified in the  
 379 | license. An agency desiring to change its licensed name must  
 380 | ~~shall~~ notify the department and, except upon renewal, pay a fee  
 381 | not to exceed \$30 for each license requiring revision including  
 382 | those of all licensed employees except Class "D" or Class "G"  
 383 | licensees. Upon the return of such licenses to the department,  
 384 | revised licenses shall be provided.

385 | Section 7. Subsections (2) and (3) of section 493.6113,  
 386 | Florida Statutes, are amended to read:

387 | 493.6113 Renewal application for licensure.—

388 | (2) At least ~~No less than~~ 90 days before ~~prior to~~ the  
 389 | expiration date of the license, the department shall mail a  
 390 | written notice to the last known mailing ~~residence~~ address of  
 391 | the licensee ~~for individual licensees and to the last known~~  
 392 | ~~agency address for agencies.~~

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393           (3) Each licensee is ~~shall be~~ responsible for renewing his  
394 or her license on or before its expiration by filing with the  
395 department an application for renewal accompanied by payment of  
396 the prescribed license fee.

397           (a) Each Class "B" ~~Class "A," Class "B," or Class "R"~~  
398 licensee shall additionally submit on a form prescribed by the  
399 department a certification of insurance that ~~which~~ evidences  
400 that the licensee maintains coverage as required under s.  
401 493.6110.

402           (b) Each Class "G" licensee shall additionally submit  
403 proof that he or she has received during each year of the  
404 license period a minimum of 4 hours of firearms recertification  
405 training taught by a Class "K" licensee and has complied with  
406 such other health and training requirements which the department  
407 may adopt by rule. If proof of a minimum of 4 hours of annual  
408 firearms recertification training cannot be provided, the  
409 renewal applicant shall complete the minimum number of hours of  
410 range and classroom training required at the time of initial  
411 licensure.

412           (c) Each Class "DS" or Class "RS" licensee shall  
413 additionally submit the current curriculum, examination, and  
414 list of instructors.

415           (d) Each Class "K" licensee shall additionally submit one  
416 of the certificates specified under s. 493.6105(6) as proof that  
417 he or she remains certified to provide firearms instruction.

418           Section 8. Subsection (8), paragraph (d) of subsection  
419 (12), and subsection (16) of section 493.6115, Florida Statutes,  
420 are amended to read:

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421           493.6115 Weapons and firearms.—  
 422           (8) A Class "G" applicant must satisfy the minimum  
 423 training criteria as set forth in s. 493.6105(5) ~~493.6105(6)~~ and  
 424 as established by rule of the department.  
 425           (12) The department may issue a temporary Class "G"  
 426 license, on a case-by-case basis, if:  
 427           (d) The applicant has received approval from the  
 428 department subsequent to its conduct of a criminal history  
 429 record check as authorized in s. 493.6108(1) ~~493.6121(6)~~.  
 430           (16) If the criminal history record check program  
 431 referenced in s. 493.6108(1) ~~493.6121(6)~~ is inoperable, the  
 432 department may issue a temporary "G" license on a case-by-case  
 433 basis, provided that the applicant has met all statutory  
 434 requirements for the issuance of a temporary "G" license as  
 435 specified in subsection (12), excepting the criminal history  
 436 record check stipulated there; provided, that the department  
 437 requires that the licensed employer of the applicant conduct a  
 438 criminal history record check of the applicant pursuant to  
 439 standards set forth in rule by the department, and provide to  
 440 the department an affidavit containing such information and  
 441 statements as required by the department, including a statement  
 442 that the criminal history record check did not indicate the  
 443 existence of any criminal history that would prohibit licensure.  
 444 Failure to properly conduct such a check, or knowingly providing  
 445 incorrect or misleading information or statements in the  
 446 affidavit constitutes ~~shall constitute~~ grounds for disciplinary  
 447 action against the licensed agency, including revocation of  
 448 license.



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449 Section 9. Present paragraph (u) of subsection (1) of  
450 section 493.6118, Florida Statutes, is redesignated as paragraph  
451 (v), and a new paragraph (u) is added to that subsection to  
452 read:

453 493.6118 Grounds for disciplinary action.—

454 (1) The following constitute grounds for which  
455 disciplinary action specified in subsection (2) may be taken by  
456 the department against any licensee, agency, or applicant  
457 regulated by this chapter, or any unlicensed person engaged in  
458 activities regulated under this chapter.

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

462 Section 10. Present subsections (7) and (8) of section  
463 493.6121, Florida Statutes, are renumbered as subsections (6)  
464 and (7), respectively, and subsection (6) of that section is  
465 amended, to read:

466 493.6121 Enforcement; investigation.—

467 ~~(6) The department shall be provided access to the program~~  
468 ~~that is operated by the Department of Law Enforcement, pursuant~~  
469 ~~to s. 790.065, for providing criminal history record information~~  
470 ~~to licensed gun dealers, manufacturers, and exporters. The~~  
471 ~~department may make inquiries, and shall receive responses in~~  
472 ~~the same fashion as provided under s. 790.065. The department~~  
473 ~~shall be responsible for payment to the Department of Law~~  
474 ~~Enforcement of the same fees as charged to others afforded~~  
475 ~~access to the program.~~

476 Section 11. Subsection (3) of section 493.6202, Florida

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477 Statutes, is amended to read:

478 493.6202 Fees.—

479 (3) The fees set forth in this section must be paid by  
480 ~~certified~~ check or money order or, at the discretion of the  
481 department, by electronic funds transfer ~~agency check~~ at the  
482 time the application is approved, except that the applicant for  
483 a Class "G," Class "C," Class "CC," Class "M," or Class "MA"  
484 license must pay the license fee at the time the application is  
485 made. If a license is revoked or denied or if the application is  
486 withdrawn, the license fee is nonrefundable ~~shall not be~~  
487 ~~refunded~~.

488 Section 12. Subsections (2), (4), and (6) of section  
489 493.6203, Florida Statutes, are amended to read:

490 493.6203 License requirements.—In addition to the license  
491 requirements set forth elsewhere in this chapter, each  
492 individual or agency shall comply with the following additional  
493 requirements:

494 (2) An applicant for a Class "MA" license must ~~shall~~ have  
495 2 years of lawfully gained, verifiable, full-time experience, or  
496 training in:

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

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

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

501 (d) Experience described in paragraph (a) for 1 year and  
502 experience described in paragraph (e) for 1 year;

503 (e) No more than 1 year using:

504 1. College coursework related to criminal justice,

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505 criminology, or law enforcement administration; or  
506 2. Successfully completed law enforcement-related training  
507 received from any federal, state, county, or municipal agency;  
508 or

509 (f) Experience described in paragraph (a) for 1 year and  
510 work in a managerial or supervisory capacity for 1 year.

511  
512 However, experience in performing bodyguard services is not  
513 creditable toward the requirements of this subsection.

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

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

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

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

526  
527 However, experience in performing bodyguard services is not  
528 creditable toward the requirements of this subsection.

529 (6) (a) A Class "CC" licensee must ~~shall~~ serve an  
530 internship under the direction and control of a designated  
531 sponsor, who is a Class "C," Class "MA," or Class "M" licensee.

532 (b) Effective January 1, 2012 ~~September 1, 2008~~, before

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533 submission of an application to the department, the an applicant  
534 for a Class "CC" license must have completed a minimum of 40 at  
535 ~~least 24~~ hours of professional training a 40-hour course  
536 pertaining to general investigative techniques and this chapter,  
537 which course is offered by a state university or by a school,  
538 community college, college, or university under the purview of  
539 the Department of Education, and the applicant must pass an  
540 examination. The training must be provided in two parts, one 24-  
541 hour course and one 16-hour course. The certificate evidencing  
542 satisfactory completion of the 40 at least 24 hours of  
543 professional training a 40-hour course must be submitted with  
544 the application for a Class "CC" license. ~~The remaining 16 hours~~  
545 ~~must be completed and an examination passed within 180 days. If~~  
546 ~~documentation of completion of the required training is not~~  
547 ~~submitted within the specified timeframe, the individual's~~  
548 ~~license is automatically suspended or his or her authority to~~  
549 ~~work as a Class "CC" pursuant to s. 493.6105(9) is rescinded~~  
550 ~~until such time as proof of certificate of completion is~~  
551 ~~provided to the department.~~ The training ~~course~~ specified in  
552 this paragraph may be provided by face-to-face presentation,  
553 online technology, or a home study course in accordance with  
554 rules and procedures of the Department of Education. The  
555 administrator of the examination must verify the identity of  
556 each applicant taking the examination.

557 1. Upon an applicant's successful completion of each part  
558 of the approved training course and passage of any required  
559 examination, the school, community college, college, or  
560 university shall issue a certificate of completion to the

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561 applicant. The certificates must be on a form established by  
562 rule of the department.

563 2. The department shall establish by rule the general  
564 content of the professional training ~~course~~ and the examination  
565 criteria.

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

569 (c) An individual who submits an application for a Class  
570 "CC" license on or after September 1, 2008, through December 31,  
571 2011, who has not completed the 16-hour course must submit proof  
572 of successful completion of the course within 180 days after the  
573 date the application is submitted. If documentation of  
574 completion of the required training is not submitted by that  
575 date, the individual's license shall be automatically suspended  
576 until proof of the required training is submitted to the  
577 department. An individual licensed on or before August 31, 2008,  
578 is not required to complete additional training hours in order  
579 to renew an active license beyond the total required hours, and  
580 the timeframe for completion in effect at the time he or she was  
581 licensed applies.

582 Section 13. Subsection (3) of section 493.6302, Florida  
583 Statutes, is amended to read:

584 493.6302 Fees.—

585 (3) The fees set forth in this section must be paid by  
586 ~~certified~~ check or money order or, at the discretion of the  
587 department, by electronic funds transfer ~~agency check~~ at the  
588 time the application is approved, except that the applicant for

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589 a Class "D," Class "G," Class "M," or Class "MB" license must  
590 pay the license fee at the time the application is made. If a  
591 license is revoked or denied or if the application is withdrawn,  
592 the license fee is nonrefundable ~~shall not be refunded~~.

593 Section 14. Subsection (4) of section 493.6303, Florida  
594 Statutes, is amended to read:

595 493.6303 License requirements.—In addition to the license  
596 requirements set forth elsewhere in this chapter, each  
597 individual or agency must ~~shall~~ comply with the following  
598 additional requirements:

599 (4) (a) Effective January 1, 2012, an applicant for a Class  
600 "D" license must submit proof of successful completion of  
601 ~~complete~~ a minimum of 40 hours of professional training at a  
602 school or training facility licensed by the department. The  
603 training must be provided in two parts, one 24-hour course and  
604 one 16-hour course. The department shall by rule establish the  
605 general content and number of hours of each subject area to be  
606 taught.

607 (b) An individual who submits an application for a Class  
608 "D" license on or after January 1, 2007, through December 31,  
609 2011, who has not completed the 16-hour course must submit proof  
610 of successful completion of the course within 180 days after the  
611 date the application is submitted. If documentation of  
612 completion of the required training is not submitted by that  
613 date, the individual's license shall be automatically suspended  
614 until proof of the required training is submitted to the  
615 department. A person licensed before January 1, 2007, is not  
616 required to complete additional training hours in order to renew

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617 an active license beyond the total required hours, and the  
 618 timeframe for completion in effect at the time he or she was  
 619 licensed applies. An applicant may fulfill the training  
 620 requirement prescribed in paragraph (a) by submitting proof of:  
 621 1. ~~Successful completion of the total number of required~~  
 622 ~~hours of training before initial application for a Class "D"~~  
 623 ~~license; or~~  
 624 2. ~~Successful completion of 24 hours of training before~~  
 625 ~~initial application for a Class "D" license and successful~~  
 626 ~~completion of the remaining 16 hours of training within 180 days~~  
 627 ~~after the date that the application is submitted. If~~  
 628 ~~documentation of completion of the required training is not~~  
 629 ~~submitted within the specified timeframe, the individual's~~  
 630 ~~license is automatically suspended until such time as proof of~~  
 631 ~~the required training is provided to the department.~~  
 632 (c) An individual ~~However, any person~~ whose license is  
 633 suspended or has been revoked, ~~suspended pursuant to paragraph~~  
 634 (b) subparagraph 2., or is expired for at least 1 year, ~~or~~  
 635 ~~longer~~ is considered, upon reapplication for a license, an  
 636 initial applicant and must submit proof of successful completion  
 637 of 40 hours of professional training at a school or training  
 638 facility licensed by the department as provided ~~prescribed~~ in  
 639 paragraph (a) before a license is ~~will be~~ issued. ~~Any person~~  
 640 ~~whose license was issued before January 1, 2007, and whose~~  
 641 ~~license has been expired for less than 1 year must, upon~~  
 642 ~~reapplication for a license, submit documentation of completion~~  
 643 ~~of the total number of hours of training prescribed by law at~~  
 644 ~~the time her or his initial license was issued before another~~

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645 ~~license will be issued. This subsection does not require an~~  
 646 ~~individual licensed before January 1, 2007, to complete~~  
 647 ~~additional training hours in order to renew an active license,~~  
 648 ~~beyond the required total amount of training within the~~  
 649 ~~timeframe prescribed by law at the time she or he was licensed.~~

650 Section 15. Subsection (2) of section 493.6304, Florida  
 651 Statutes, is amended to read:

652 493.6304 Security officer school or training facility.—

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

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

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

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

663 Section 16. Subsections (7) and (8) of section 493.6401,  
 664 Florida Statutes, are amended to read:

665 493.6401 Classes of licenses.—

666 (7) Any person who operates a recovery agent ~~repossessor~~  
 667 school or training facility or who conducts an Internet-based  
 668 training course or a correspondence training course must have a  
 669 Class "RS" license.

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



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673 Section 17. Subsections (1) and (3) of section 493.6402,  
674 Florida Statutes, are amended to read:

675 493.6402 Fees.—

676 (1) The department shall establish by rule biennial  
677 license fees that ~~which~~ shall not exceed the following:

678 (a) Class "R" license—recovery agency: \$450.

679 (b) Class "RR" license—branch office: \$125.

680 (c) Class "MR" license—recovery agency manager: \$75.

681 (d) Class "E" license—recovery agent: \$75.

682 (e) Class "EE" license—recovery agent intern: \$60.

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

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

687 (3) The fees set forth in this section must be paid by  
688 ~~certified~~ check or money order, or, at the discretion of the  
689 department, by or electronic funds transfer ~~agency check~~ at the  
690 time the application is approved, except that the applicant for  
691 a Class "E," Class "EE," or Class "MR" license must pay the  
692 license fee at the time the application is made. If a license is  
693 revoked or denied, or if an application is withdrawn, the  
694 license fee is nonrefundable ~~shall not be refunded~~.

695 Section 18. Section 493.6406, Florida Statutes, is amended  
696 to read:

697 493.6406 Recovery agent ~~Repossession services~~ school or  
698 training facility.—

699 (1) Any school, training facility, or instructor who  
700 offers the training outlined in s. 493.6403(2) for Class "E" or

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701 Class "EE" applicants shall, before licensure of such school,  
702 training facility, or instructor, file with the department an  
703 application accompanied by an application fee in an amount to be  
704 determined by rule, not to exceed \$60. The fee shall not be  
705 refundable. This training may be offered as face-to-face  
706 training, Internet-based training, or correspondence training.

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

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

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

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

718 (3) The department shall adopt rules establishing the  
719 criteria for approval of schools, training facilities, and  
720 instructors.

721 Section 19. Paragraphs (j) through (z) of subsection (1)  
722 of section 500.03, Florida Statutes, are redesignated as  
723 paragraphs (l) through (bb), respectively, present paragraphs  
724 (n) and (p) are amended, and new paragraphs (j) and (k) are  
725 added to that subsection, to read:

726 500.03 Definitions; construction; applicability.—

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

728 (j) "Cottage food operation" means a natural person who

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729 produces or packages cottage food products at his or her  
730 residence and sells such products in accordance with s. 500.80.

731 (k) "Cottage food product" means food that is not a  
732 potentially hazardous food as defined by department rule which  
733 is sold by a cottage food operation in accordance with s.  
734 500.80.

735 (p)~~(n)~~ "Food establishment" means any factory, food  
736 outlet, or any other facility manufacturing, processing,  
737 packing, holding, or preparing food or selling food at wholesale  
738 or retail. The term does not include any business or activity  
739 that is regulated under s. 500.80, chapter 509, or chapter 601.  
740 The term includes tomato packinghouses and repackers but does  
741 not include any other establishments that pack fruits and  
742 vegetables in their raw or natural states, including those  
743 fruits or vegetables that are washed, colored, or otherwise  
744 treated in their unpeeled, natural form before they are  
745 marketed.

746 (r)~~(p)~~ "Food service establishment" means any place where  
747 food is prepared and intended for individual portion service,  
748 and includes the site at which individual portions are provided.  
749 The term includes any such place regardless of whether  
750 consumption is on or off the premises and regardless of whether  
751 there is a charge for the food. The term includes delicatessens  
752 that offer prepared food in individual service portions. The  
753 term does not include schools, institutions, fraternal  
754 organizations, private homes where food is prepared or served  
755 for individual family consumption, retail food stores, the  
756 location of food vending machines, cottage food operations, and

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757 supply vehicles, nor does the term include a research and  
758 development test kitchen limited to the use of employees and  
759 which is not open to the general public.

760 Section 20. Subsection (1) of section 500.121, Florida  
761 Statutes, is amended to read:

762 500.121 Disciplinary procedures.—

763 (1) In addition to the suspension procedures provided in  
764 s. 500.12, if applicable, the department may impose a fine not  
765 to exceed ~~exceeding~~ \$5,000 against any retail food store, ~~or~~  
766 food establishment, or cottage food operation that violates ~~has~~  
767 ~~violated~~ this chapter, which fine, when imposed and paid, shall  
768 be deposited by the department into the General Inspection Trust  
769 Fund. The department may revoke or suspend the permit of any  
770 such retail food store or food establishment if it is satisfied  
771 that the retail food store or food establishment has:

772 (a) Violated any of the provisions of this chapter.

773 (b) Violated or aided or abetted in the violation of any  
774 law of this state governing or applicable to retail food stores  
775 or food establishments or any lawful rules of the department.

776 (c) Knowingly committed, or been a party to, any material  
777 fraud, misrepresentation, conspiracy, collusion, trick, scheme,  
778 or device whereby any other person, lawfully relying upon the  
779 word, representation, or conduct of a retail food store or food  
780 establishment, acts to her or his injury or damage.

781 (d) Committed any act or conduct of the same or different  
782 character than that enumerated which constitutes fraudulent or  
783 dishonest dealing.

784 Section 21. Section 500.80, Florida Statutes, is created

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785 to read:

786 500.80 Cottage food operations.-

787 (1) (a) A cottage food operation must comply with the  
788 applicable requirements of this chapter but is exempt from the  
789 permitting requirements of s. 500.12 if the cottage food  
790 operation complies with this section and has annual gross sales  
791 of cottage food products that do not exceed \$15,000.

792 (b) For purposes of this subsection, a cottage food  
793 operation's annual gross sales include all sales of cottage food  
794 products at any location, regardless of the types of products  
795 sold or the number of persons involved in the operation. A  
796 cottage food operation must provide the department, upon  
797 request, with written documentation to verify the operation's  
798 annual gross sales.

799 (2) A cottage food operation may not sell or offer for  
800 sale cottage food products over the Internet, by mail order, or  
801 at wholesale.

802 (3) A cottage food operation may only sell cottage food  
803 products which are prepackaged with a label affixed that  
804 contains the following information:

805 (a) The name and address of the cottage food operation.

806 (b) The name of the cottage food product.

807 (c) The ingredients of the cottage food product, in  
808 descending order of predominance by weight.

809 (d) The net weight or net volume of the cottage food  
810 product.

811 (e) Allergen information as specified by federal labeling  
812 requirements.

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813 (f) If any nutritional claim is made, appropriate  
814 nutritional information as specified by federal labeling  
815 requirements.

816 (g) The following statement printed in at least 10-point  
817 type in a color that provides a clear contrast to the background  
818 of the label: "Made in a cottage food operation that is not  
819 subject to Florida's food safety regulations."

820 (4) A cottage food operation may only sell cottage food  
821 products that it stores on the premises of the cottage food  
822 operation.

823 (5) This section does not exempt a cottage food operation  
824 from any state or federal tax law, rule, regulation, or  
825 certificate that applies to all cottage food operations.

826 (6) A cottage food operation must comply with all  
827 applicable county and municipal laws and ordinances regulating  
828 the preparation, processing, storage, and sale of cottage food  
829 products by a cottage food operation or from a person's  
830 residence.

831 (7) (a) The department may investigate any complaint which  
832 alleges that a cottage food operation has violated an applicable  
833 provision of this chapter or rule adopted under this chapter.

834 (b) Only upon receipt of a complaint, the department's  
835 authorized officer or employee may enter and inspect the  
836 premises of a cottage food operation to determine compliance  
837 with this chapter and department rules, as applicable. A cottage  
838 food operation's refusal to permit the department's authorized  
839 officer or employee entry to the premises or to conduct the  
840 inspection is grounds for disciplinary action pursuant to s.

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841 500.121.  
 842 (8) This section does not apply to a person operating  
 843 under a food permit issued pursuant to s. 500.12.  
 844 Section 22. Subsections (2) and (4) of section 501.145,  
 845 Florida Statutes, are amended to read:  
 846 501.145 Bedding Label Act.—  
 847 (2) DEFINITIONS.—For the purpose of this section, the  
 848 term:  
 849 (a) "Bedding" means any mattress, box spring, pillow, or  
 850 cushion made of leather or any other material which is or can be  
 851 stuffed or filled in whole or in part with any substance or  
 852 material, which can be used by any human being for sleeping or  
 853 reclining purposes.  
 854 (b) "Department" means the ~~Department of Agriculture and~~  
 855 ~~Consumer Services.~~  
 856 ~~(c) "Enforcing authority" means the Department of~~  
 857 ~~Agriculture and Consumer Services or the Department of Legal~~  
 858 ~~Affairs.~~  
 859 (4) PENALTIES.—The department enforcing authority may  
 860 bring an action for injunctive relief against any person who  
 861 violates the provisions of this section. Any person who  
 862 knowingly sells bedding which contains used material that is not  
 863 labeled in accordance with this section commits a misdemeanor of  
 864 the second degree, punishable as provided in s. 775.082 or s.  
 865 775.083.  
 866 Section 23. Paragraph (b) of subsection (1) and subsection  
 867 (8) of section 501.160, Florida Statutes, are amended to read:  
 868 501.160 Rental or sale of essential commodities during a

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869 declared state of emergency; prohibition against unconscionable  
870 prices.—

871 (1) As used in this section:

872 (b) It is prima facie evidence that a price is  
873 unconscionable if:

874 1. The amount charged represents a gross disparity between  
875 the price of the commodity or rental or lease of any dwelling  
876 unit or self-storage facility that is the subject of the offer  
877 or transaction and the average price at which that commodity or  
878 dwelling unit or self-storage facility was rented, leased, sold,  
879 or offered for rent or sale in the usual course of business  
880 during the 30 days immediately prior to a declaration of a state  
881 of emergency, unless ~~and~~ the increase in the amount charged is  
882 ~~not~~ attributable to additional costs incurred in connection with  
883 the rental or sale of the commodity or rental or lease of any  
884 dwelling unit or self-storage facility, or regional, national or  
885 international market trends; or

886 2. The amount charged grossly exceeds the average price at  
887 which the same or similar commodity was readily obtainable in  
888 the trade area during the 30 days immediately prior to a  
889 declaration of a state of emergency, unless ~~and~~ the increase in  
890 the amount charged is ~~not~~ attributable to additional costs  
891 incurred in connection with the rental or sale of the commodity  
892 or rental or lease of any dwelling unit or self-storage  
893 facility, or regional, national or international market trends.

894 (8) Any violation of this section may be enforced by the  
895 ~~Department of Agriculture and Consumer Services, the office of~~  
896 the state attorney, or the Department of Legal Affairs.



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897 Section 24. Subsection (2) of section 525.01, Florida  
898 Statutes, is amended to read:

899 525.01 Gasoline and oil to be inspected.—

900 (2) All petroleum fuels are ~~shall be~~ subject to inspection  
901 and analysis by the department. Before selling or offering for  
902 sale in this state any petroleum fuel, all manufacturers,  
903 terminal suppliers, wholesalers, and importers as defined in s.  
904 206.01 ~~jobbers~~ shall file with the department:

905 (a) An affidavit stating that they desire to do business  
906 in this state, and the name and address of the manufacturer of  
907 the petroleum fuel.

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

910 Section 25. Section 526.06, Florida Statutes, is amended  
911 to read:

912 526.06 Mixing, blending, compounding, or adulteration of  
913 liquid fuels of same manufacturer prohibited; ~~sale of gasoline~~  
914 ~~blended with ethanol.~~ A ~~It is unlawful for any person~~ may not ~~to~~  
915 mix, blend, compound, or adulterate the liquid fuel, lubricating  
916 oil, grease, or similar product of a manufacturer or distributor  
917 with a liquid fuel, lubricating oil, grease, or similar product  
918 of the same manufacturer or distributor of a character or nature  
919 different from the character or nature of the liquid fuel,  
920 lubricating oil, grease, or similar product so mixed, blended,  
921 compounded, or adulterated, and expose for sale, offer for sale,  
922 or sell the same as the unadulterated product of such  
923 manufacturer or distributor or as the unadulterated product of  
924 any other manufacturer or distributor. However, ~~nothing in this~~

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925 chapter does not ~~shall be construed~~ to prevent the lawful owner  
 926 of such products from applying his, her, or its own trademark,  
 927 trade name, or symbol to any product or material. ~~Ethanol-~~  
 928 ~~blended fuels which contain unleaded gasoline and up to 10~~  
 929 ~~percent denatured ethanol by volume may be sold at retail~~  
 930 ~~service stations for use in motor vehicles. To provide retail~~  
 931 ~~service stations flexibility during the transition period to~~  
 932 ~~ethanol-blended fuels, the T50 and TV/L specifications for~~  
 933 ~~gasoline containing between 9 and 10 percent ethanol shall be~~  
 934 ~~applied to all gasoline containing between 1 and 10 percent~~  
 935 ~~ethanol by volume provided the last three or fewer deliveries~~  
 936 ~~contained between 9 and 10 percent ethanol by volume. If there~~  
 937 ~~is no reasonable availability of ethanol or the price of ethanol~~  
 938 ~~exceeds the price of gasoline, the T50 and TV/L specifications~~  
 939 ~~for gasoline containing between 9 and 10 percent ethanol shall~~  
 940 ~~be applicable for gasoline containing between 1 and 10 percent~~  
 941 ~~ethanol for up to three deliveries of fuel.~~

942 Section 26. Paragraph (f) of subsection (3) of section  
 943 539.001, Florida Statutes, is amended to read:

944 539.001 The Florida Pawnbroking Act.—

945 (3) LICENSE REQUIRED.—

946 (f) Any person applying for or renewing a local  
 947 occupational license to engage in business as a pawnbroker must  
 948 exhibit a current license from the agency before the local  
 949 business tax receipt ~~occupational license~~ may be issued or  
 950 reissued.

951 Section 27. Subsection (7) of section 681.102, Florida  
 952 Statutes, is amended, and present subsections (8) through (23)

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953 of that section are renumbered as subsections (7) through (22),  
954 respectively, to read:

955 681.102 Definitions.—As used in this chapter, the term:

956 ~~(7) "Division" means the Division of Consumer Services of~~  
957 ~~the Department of Agriculture and Consumer Services.~~

958 Section 28. Subsection (3) of section 681.103, Florida  
959 Statutes, is amended to read:

960 681.103 Duty of manufacturer to conform a motor vehicle to  
961 the warranty.—

962 (3) At the time of acquisition, the manufacturer shall  
963 inform the consumer clearly and conspicuously in writing how and  
964 where to file a claim with a certified procedure if such  
965 procedure has been established by the manufacturer pursuant to  
966 s. 681.108. The nameplate manufacturer of a recreational vehicle  
967 shall, at the time of vehicle acquisition, inform the consumer  
968 clearly and conspicuously in writing how and where to file a  
969 claim with a program pursuant to s. 681.1096. The manufacturer  
970 shall provide to the dealer and, at the time of acquisition, the  
971 dealer shall provide to the consumer a written statement that  
972 explains the consumer's rights under this chapter. The written  
973 statement shall be prepared by the Department of Legal Affairs  
974 and shall contain a toll-free number for the department which  
975 ~~division that~~ the consumer can contact to obtain information  
976 regarding the consumer's rights and obligations under this  
977 chapter or to commence arbitration. If the manufacturer obtains  
978 a signed receipt for timely delivery of sufficient quantities of  
979 this written statement to meet the dealer's vehicle sales  
980 requirements, it shall constitute prima facie evidence of

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981 compliance with this subsection by the manufacturer. The  
 982 consumer's signed acknowledgment of receipt of materials  
 983 required under this subsection shall constitute prima facie  
 984 evidence of compliance by the manufacturer and dealer. The form  
 985 of the acknowledgments shall be approved by the Department of  
 986 Legal Affairs, and the dealer shall maintain the consumer's  
 987 signed acknowledgment for 3 years.

988 Section 29. Section 681.108, Florida Statutes, is amended  
 989 to read:

990 681.108 Dispute-settlement procedures.—

991 (1) If a manufacturer has established a procedure that,  
 992 ~~which~~ the department ~~division~~ has certified as substantially  
 993 complying with the provisions of 16 C.F.R. part 703, in effect  
 994 October 1, 1983, and with the provisions of this chapter and the  
 995 rules adopted under this chapter, and has informed the consumer  
 996 how and where to file a claim with such procedure pursuant to s.  
 997 681.103(3), the provisions of s. 681.104(2) apply to the  
 998 consumer only if the consumer has first resorted to such  
 999 procedure. The decisionmakers for a certified procedure shall,  
 1000 in rendering decisions, take into account all legal and  
 1001 equitable factors germane to a fair and just decision,  
 1002 including, but not limited to, the warranty; the rights and  
 1003 remedies conferred under 16 C.F.R. part 703, in effect October  
 1004 1, 1983; the provisions of this chapter; and any other equitable  
 1005 considerations appropriate under the circumstances.  
 1006 Decisionmakers and staff of a procedure shall be trained in the  
 1007 provisions of this chapter and in 16 C.F.R. part 703, in effect  
 1008 October 1, 1983. In an action brought by a consumer concerning

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1009 an alleged nonconformity, the decision that results from a  
1010 certified procedure is admissible in evidence.

1011 (2) A manufacturer may apply to the department ~~division~~  
1012 for certification of its procedure. After receipt and evaluation  
1013 of the application, the department ~~division~~ shall certify the  
1014 procedure or notify the manufacturer of any deficiencies in the  
1015 application or the procedure.

1016 (3) A certified procedure or a procedure of an applicant  
1017 seeking certification shall submit to the department ~~division~~ a  
1018 copy of each settlement approved by the procedure or decision  
1019 made by a decisionmaker within 30 days after the settlement is  
1020 reached or the decision is rendered. The decision or settlement  
1021 must contain at a minimum the:

1022 (a) Name and address of the consumer;

1023 (b) Name of the manufacturer and address of the dealership  
1024 from which the motor vehicle was purchased;

1025 (c) Date the claim was received and the location of the  
1026 procedure office that handled the claim;

1027 (d) Relief requested by the consumer;

1028 (e) Name of each decisionmaker rendering the decision or  
1029 person approving the settlement;

1030 (f) Statement of the terms of the settlement or decision;

1031 (g) Date of the settlement or decision; and

1032 (h) Statement of whether the decision was accepted or  
1033 rejected by the consumer.

1034 (4) Any manufacturer establishing or applying to establish  
1035 a certified procedure must file with the department ~~division~~ a  
1036 copy of the annual audit required under the provisions of 16

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1037 C.F.R. part 703, in effect October 1, 1983, together with any  
1038 additional information required for purposes of certification,  
1039 including the number of refunds and replacements made in this  
1040 state pursuant to the provisions of this chapter by the  
1041 manufacturer during the period audited.

1042 (5) The department ~~division~~ shall review each certified  
1043 procedure at least annually, prepare an annual report evaluating  
1044 the operation of certified procedures established by motor  
1045 vehicle manufacturers and procedures of applicants seeking  
1046 certification, and, for a period not to exceed 1 year, shall  
1047 grant certification to, or renew certification for, those  
1048 manufacturers whose procedures substantially comply with the  
1049 provisions of 16 C.F.R. part 703, in effect October 1, 1983, and  
1050 with the provisions of this chapter and rules adopted under this  
1051 chapter. If certification is revoked or denied, the department  
1052 ~~division~~ shall state the reasons for such action. The reports  
1053 and records of actions taken with respect to certification shall  
1054 be public records.

1055 (6) A manufacturer whose certification is denied or  
1056 revoked is entitled to a hearing pursuant to chapter 120.

1057 (7) If federal preemption of state authority to regulate  
1058 procedures occurs, the provisions of subsection (1) concerning  
1059 prior resort do not apply.

1060 (8) The department may ~~division shall~~ adopt rules to  
1061 administer ~~implement~~ this section.

1062 Section 30. Section 681.109, Florida Statutes, is amended  
1063 to read:

1064 681.109 Florida New Motor Vehicle Arbitration Board;

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1065 dispute eligibility.—

1066 (1) If a manufacturer has a certified procedure, a  
1067 consumer claim arising during the Lemon Law rights period must  
1068 be filed with the certified procedure no later than 60 days  
1069 after the expiration of the Lemon Law rights period. If a  
1070 decision is not rendered by the certified procedure within 40  
1071 days after ~~of~~ filing, the consumer may apply to the department  
1072 ~~division~~ to have the dispute removed to the board for  
1073 arbitration.

1074 (2) If a manufacturer has a certified procedure, a  
1075 consumer claim arising during the Lemon Law rights period must  
1076 be filed with the certified procedure no later than 60 days  
1077 after the expiration of the Lemon Law rights period. If a  
1078 consumer is not satisfied with the decision or the  
1079 manufacturer's compliance therewith, the consumer may apply to  
1080 the department ~~division~~ to have the dispute submitted to the  
1081 board for arbitration. A manufacturer may not seek review of a  
1082 decision made under its procedure.

1083 (3) If a manufacturer does not have a ~~has no~~ certified  
1084 procedure or if the ~~a~~ certified procedure does not have  
1085 jurisdiction to resolve the dispute, a consumer may apply  
1086 directly to the department ~~division~~ to have the dispute  
1087 submitted to the board for arbitration.

1088 (4) A consumer must request arbitration before the board  
1089 with respect to a claim arising during the Lemon Law rights  
1090 period no later than 60 days after the expiration of the Lemon  
1091 Law rights period, or within 30 days after the final action of a  
1092 certified procedure, whichever date occurs later.

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1093           (5) The department ~~division~~ shall screen all requests for  
1094 arbitration before the board to determine eligibility. The  
1095 consumer's request for arbitration before the board shall be  
1096 made on a form prescribed by the department. The department  
1097 ~~division~~ shall forward to the board all disputes that the  
1098 department ~~division~~ determines are potentially entitled to  
1099 relief under this chapter.

1100           (6) The department ~~division~~ may reject a dispute that it  
1101 determines to be fraudulent or outside the scope of the board's  
1102 authority. Any dispute deemed by the department ~~division~~ to be  
1103 ineligible for arbitration by the board due to insufficient  
1104 evidence may be reconsidered upon the submission of new  
1105 information regarding the dispute. ~~Following a second review,~~  
1106 The department, after a second review, ~~division~~ may reject a  
1107 dispute if the evidence is clearly insufficient to qualify for  
1108 relief. If the department rejects a dispute, it must provide  
1109 notice of the rejection and a brief explanation of the reason  
1110 for rejection ~~Any dispute rejected by the division shall be~~  
1111 ~~forwarded to the department and a copy shall be sent by~~  
1112 ~~registered mail to the consumer and to the manufacturer,~~  
1113 ~~containing a brief explanation as to the reason for rejection.~~

1114           (7) If the department ~~division~~ rejects a dispute, the  
1115 consumer may file a lawsuit to enforce the remedies provided  
1116 under this chapter. In any civil action arising under this  
1117 chapter and relating to a matter considered by the department  
1118 ~~division~~, any determination made to reject a dispute is  
1119 admissible in evidence.

1120           (8) The department ~~may~~ shall ~~have the authority to~~ adopt



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1121 ~~reasonable~~ rules to administer ~~carry out the provisions of~~ this  
1122 section.

1123 Section 31. Subsections (2), (3), (4), (5), (9), (11), and  
1124 (12) of section 681.1095, Florida Statutes, are amended, and  
1125 subsection (17) is added to that section, to read:

1126 681.1095 Florida New Motor Vehicle Arbitration Board;  
1127 creation and function.—

1128 (2) The board ~~boards~~ shall hear cases in various locations  
1129 throughout the state so that any consumer whose dispute is  
1130 approved for arbitration by the department ~~division~~ may attend  
1131 an arbitration hearing at a reasonably convenient location and  
1132 present a dispute orally. Hearings shall be conducted by panels  
1133 of three board members assigned by the department. A majority  
1134 vote of the three-member board panel shall be required to render  
1135 a decision. Arbitration proceedings under this section shall be  
1136 open to the public on reasonable and nondiscriminatory terms.

1137 (3) Each region of the board shall consist of up to eight  
1138 members. The members of the board shall construe and apply the  
1139 provisions of this chapter, and rules adopted thereunder, in  
1140 making their decisions. An administrator and a secretary shall  
1141 be assigned to each region of the board by the Department of  
1142 Legal Affairs. At least one member of the ~~each~~ board in each  
1143 region must ~~have be a person with~~ expertise in motor vehicle  
1144 mechanics. A member may ~~must~~ not be employed by a manufacturer  
1145 or a franchised motor vehicle dealer or be a staff member, a  
1146 decisionmaker, or a consultant for a procedure. Board members  
1147 shall be trained in the application of this chapter and any  
1148 rules adopted under this chapter. Members of the board, shall be

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1149 ~~reimbursed for travel expenses pursuant to s. 112.061, and shall~~  
1150 ~~be~~ compensated at a rate ~~or wage~~ prescribed by the Attorney  
1151 General and are entitled to reimbursement for per diem and  
1152 travel expenses pursuant to s. 112.061.

1153 (4) Before filing a civil action on a matter subject to s.  
1154 681.104, the consumer must first submit the dispute to the  
1155 department division, and to the board if such dispute is deemed  
1156 eligible for arbitration.

1157 (5) Manufacturers shall submit to arbitration conducted by  
1158 the board if such arbitration is requested by a consumer and the  
1159 dispute is deemed eligible for arbitration by the department  
1160 ~~division~~ pursuant to s. 681.109.

1161 (9) The decision of the board shall be sent by any method  
1162 providing a delivery confirmation ~~registered mail~~ to the  
1163 consumer and the manufacturer, and shall contain written  
1164 findings of fact and rationale for the decision. If the decision  
1165 is in favor of the consumer, the manufacturer must, within 40  
1166 days after receipt of the decision, comply with the terms of the  
1167 decision. Compliance occurs on the date the consumer receives  
1168 delivery of an acceptable replacement motor vehicle or the  
1169 refund specified in the arbitration award. In any civil action  
1170 arising under this chapter and relating to a dispute arbitrated  
1171 before the board, any decision by the board is admissible in  
1172 evidence.

1173 (11) ~~All provisions in~~ This section and s. 681.109  
1174 pertaining to compulsory arbitration before the board, the  
1175 dispute eligibility screening by the department division, the  
1176 proceedings and decisions of the board, and any appeals thereof,

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1177 are exempt from ~~the provisions of~~ chapter 120.

1178 (12) An appeal of a decision by the board to the circuit  
1179 court by a consumer or a manufacturer shall be by trial de novo.  
1180 In a written petition to appeal a decision by the board, the  
1181 appealing party must state the action requested and the grounds  
1182 relied upon for appeal. Within 15 ~~30~~ days after ~~of~~ final  
1183 disposition of the appeal, the appealing party shall furnish the  
1184 department with ~~notice of such disposition and, upon request,~~  
1185 ~~shall furnish the department with~~ a copy of the settlement or  
1186 the order or judgment of the court.

1187 (17) The department may adopt rules to administer this  
1188 section.

1189 Section 32. Subsections (2) and (4) of section 681.1096,  
1190 Florida Statutes, are amended to read:

1191 681.1096 RV Mediation and Arbitration Program; creation  
1192 and qualifications.—

1193 (2) Each manufacturer of a recreational vehicle involved  
1194 in a dispute that is determined eligible under this chapter,  
1195 including chassis and component manufacturers that ~~which~~  
1196 separately warrant the chassis and components and that ~~which~~  
1197 otherwise meet the definition of manufacturer set forth in s.  
1198 681.102(13) ~~681.102(14)~~, shall participate in a mediation and  
1199 arbitration program that is deemed qualified by the department.

1200 (4) The department shall monitor the program for  
1201 compliance with this chapter. If the program is determined not  
1202 qualified or if qualification is revoked, then disputes shall be  
1203 subject to the provisions of ss. 681.109 and 681.1095. If the  
1204 program is determined not qualified or if qualification is

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1205 | revoked as to a manufacturer, all those manufacturers  
 1206 | potentially involved in the eligible consumer dispute shall be  
 1207 | required to submit to arbitration conducted by the board if such  
 1208 | arbitration is requested by a consumer and the dispute is deemed  
 1209 | eligible for arbitration by the department ~~division~~ pursuant to  
 1210 | s. 681.109. A consumer having a dispute involving one or more  
 1211 | manufacturers for which the program has been determined not  
 1212 | qualified, or for which qualification has been revoked, is not  
 1213 | required to submit the dispute to the program irrespective of  
 1214 | whether the program may be qualified as to some of the  
 1215 | manufacturers potentially involved in the dispute.

1216 |       Section 33. Subsection (2) of section 681.112, Florida  
 1217 | Statutes, is amended to read:

1218 |       681.112 Consumer remedies.—

1219 |       (2) An action brought under this chapter must be commenced  
 1220 | within 1 year after the expiration of the Lemon Law rights  
 1221 | period, or, if a consumer resorts to an informal dispute-  
 1222 | settlement procedure or submits a dispute to the department  
 1223 | ~~division~~ or board, within 1 year after the final action of the  
 1224 | procedure, department ~~division~~, or board.

1225 |       Section 34. Subsection (1) of section 681.117, Florida  
 1226 | Statutes, is amended to read:

1227 |       681.117 Fee.—

1228 |       (1) A \$2 fee shall be collected by a motor vehicle dealer,  
 1229 | or by a person engaged in the business of leasing motor  
 1230 | vehicles, from the consumer at the consummation of the sale of a  
 1231 | motor vehicle or at the time of entry into a lease agreement for  
 1232 | a motor vehicle. Such fees shall be remitted to the county tax

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1233 collector or private tag agency acting as agent for the  
 1234 Department of Revenue. If the purchaser or lessee removes the  
 1235 motor vehicle from the state for titling and registration  
 1236 outside this state, the fee shall be remitted to the Department  
 1237 of Revenue. All fees, less the cost of administration, shall be  
 1238 transferred monthly to the Department of Legal Affairs for  
 1239 deposit into the Motor Vehicle Warranty Trust Fund. ~~The~~  
 1240 ~~Department of Legal Affairs shall distribute monthly an amount~~  
 1241 ~~not exceeding one-fourth of the fees received to the Division of~~  
 1242 ~~Consumer Services of the Department of Agriculture and Consumer~~  
 1243 ~~Services to carry out the provisions of ss. 681.108 and 681.109.~~  
 1244 ~~The Department of Legal Affairs shall contract with the Division~~  
 1245 ~~of Consumer Services for payment of services performed by the~~  
 1246 ~~division pursuant to ss. 681.108 and 681.109.~~  
 1247 Section 35. This act shall take effect July 1, 2011.