



814366

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
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The Committee on Commerce and Tourism (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (1) of subsection (2) of section
20.14, Florida Statutes, is amended to read:

20.14 Department of Agriculture and Consumer Services.—
There is created a Department of Agriculture and Consumer
Services.

(2) The following divisions of the Department of
Agriculture and Consumer Services are established:

~~(1) Standards.~~



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13 Section 2. Section 366.85, Florida Statutes, is repealed.

14 Section 3. Subsection (7) of section 472.005, Florida
15 Statutes, is amended, and subsections (15) and (16) are added to
16 that section, to read:

17 472.005 Definitions.—As used in ss. 472.001-472.037:

18 (7) The term "license" means a registration, certificate,
19 or license issued by the department pursuant to this chapter ~~the~~
20 ~~registration of surveyors and mappers or the certification of~~
21 ~~businesses to practice surveying and mapping in this state.~~

22 (15) "Consumer member" means a person appointed to serve on
23 the board who is not, and never has been, a professional
24 surveyor or mapper in any jurisdiction or a member of any
25 closely related profession regulated by the board.

26 (16) "Licensee" means any person or business entity that
27 has been issued, pursuant to this chapter, a registration,
28 certificate, or license by the department.

29 Section 4. Subsection (12) is added to section 472.006,
30 Florida Statutes, to read:

31 472.006 Department; powers and duties.—The department
32 shall:

33 (12) Work cooperatively with the Department of Revenue to
34 implement an automated method for periodically disclosing
35 information relating to current licensees to the Department of
36 Revenue in order to further the public policy of reducing the
37 state's financial burden as a result of family desertion and
38 nonsupport of dependent children as provided in s. 409.2551. The
39 department shall, if directed by the court or the Department of
40 Revenue, pursuant to s. 409.2598, suspend or deny the license of
41 any licensee who is found to not be in compliance with a support



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42 order, subpoena, order to show cause, or written agreement
43 entered into by the licensee with the Department of Revenue. The
44 department shall issue or reinstate the license without
45 additional charge to the licensee if notified by the court or
46 the Department of Revenue that the licensee has complied with
47 the terms of the support order. The department is not liable for
48 any license denial or suspension resulting from the discharge of
49 its duties under this subsection.

50 Section 5. Subsections (1) and (12) of section 472.011,
51 Florida Statutes, are amended to read:

52 472.011 Fees.—

53 (1) The board, by rule, may establish fees to be paid for
54 applications, examination, reexamination, licensing and renewal,
55 inactive status application and reactivation of inactive
56 licenses, recordmaking and recordkeeping, and applications for
57 providers of continuing education. The board may also establish
58 by rule a delinquency fee. The board shall establish fees that
59 are adequate to ensure the continued operation of the board.
60 Fees shall be based on department estimates of the revenue
61 required to implement ss. 472.001-472.037 and the provisions of
62 law with respect to the regulation of surveyors and mappers. If
63 the department determines, based on estimates of available
64 revenue collected pursuant to this section, that the General
65 Inspection Trust Fund contains funds that exceed the amount
66 required to cover the necessary functions of the board, the
67 department shall, by rule, waive the license renewal fees for
68 licensees under this chapter for a period not to exceed 2 years.

69 (12) The board may, by rule, assess and collect a special
70 assessment ~~one-time fee~~ from each active, inactive, and



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71 delinquent ~~each voluntary inactive~~ licensee in an amount
72 necessary to eliminate a cash deficit or, if there is not a cash
73 deficit, in an amount sufficient to maintain the financial
74 integrity of this profession as required in this subsection.

75 Section 6. Subsection (3) of section 472.0131, Florida
76 Statutes, is amended to read:

77 472.0131 Examinations; development; administration.—

78 (3) Except for national examinations approved and
79 administered pursuant to paragraph (1)(d), the department shall
80 provide procedures for applicants who have taken and failed an
81 examination developed by the department or a contracted vendor
82 to review their examination questions, answers, papers, grades,
83 and grading key for the questions the candidate answered
84 incorrectly on his or her last examination or, if not feasible,
85 the parts of the examination failed. Applicants shall bear the
86 actual cost for the department to provide examination review
87 pursuant to this subsection. An applicant may waive in writing
88 the confidentiality of his or her examination grades.

89 Section 7. Subsection (1) and paragraph (b) of subsection
90 (6) of section 472.015, Florida Statutes, are amended, and
91 subsection (15) is added to that section, to read:

92 472.015 Licensure.—

93 (1) Notwithstanding any other law, the department is the
94 sole authority for determining the contents of any documents to
95 be submitted for initial licensure and licensure renewal. The
96 ~~Such~~ documents may contain information including, as
97 appropriate: demographics, social security number, education,
98 work history, personal background, criminal history, finances,
99 business information, complaints, inspections, investigations,



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100 discipline, bonding, signature notarization, photographs,
101 performance periods, reciprocity, local government approvals,
102 supporting documentation, periodic reporting requirements,
103 continuing education requirements, and ongoing education
104 monitoring. The applicant shall supplement his or her
105 application ~~may be supplemented~~ as needed to reflect any
106 material change in any circumstance or condition stated in the
107 application which takes place between the initial filing of the
108 application and the final grant or denial of the license and
109 which might affect the decision of the department. An
110 application is received for the purposes of s. 120.60 upon
111 receipt by the department of the application, submitted in the
112 format prescribed by the department, the application fee set by
113 the board, and any other documentation or fee required by law or
114 rule to be submitted with the application in order for the
115 application to be complete.

116 (6)

117 (b) The department may ~~shall~~ not issue a license by
118 endorsement to any applicant who is under investigation in this
119 state or any other state or any other jurisdiction ~~another state~~
120 for any act that would constitute a violation of this ss.
121 ~~472.001-472.037~~ or chapter 455 until ~~such time as~~ the
122 investigation is complete and disciplinary proceedings have been
123 terminated.

124 (15) Pursuant to the federal Personal Responsibility and
125 Work Opportunity Reconciliation Act of 1996, each person
126 applying for initial licensure or license renewal shall provide
127 his or her social security number. Use of social security
128 numbers obtained through this requirement is limited to the



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129 purpose of administering the Title IV-D program for child
130 support enforcement, use by the department, and use as otherwise
131 provided by law.

132 Section 8. Subsection (1) of section 472.018, Florida
133 Statutes, is amended, and subsections (13), (14), and (15) are
134 added to that section, to read:

135 472.018 Continuing education.—The department may not renew
136 a license until the licensee submits proof satisfactory to the
137 board that during the 2 years before ~~prior to~~ her or his
138 application for renewal the licensee has completed at least 24
139 hours of continuing education.

140 (1) The board shall adopt rules to establish the criteria
141 and course content for continuing education courses. The rules
142 may provide that up to a maximum of 25 percent of the required
143 continuing education hours may ~~can~~ be fulfilled by the
144 performance of pro bono services to the indigent or to
145 underserved populations or in areas of critical need within the
146 state where the licensee practices. The board must require that
147 any pro bono services be approved in advance in order to receive
148 credit for continuing education under this section. The board
149 shall use the standard for determining indigency shall be that
150 recognized by the Federal Poverty Income Guidelines produced by
151 the United States Department of Health and Human Services in
152 determining indigency. The board may adopt rules that may
153 provide for approval by the board that a part of the continuing
154 education hours may ~~can~~ be fulfilled by performing research in
155 critical need areas or for training leading to advanced
156 professional certification. The board, ~~or the department when~~
157 ~~there is no board,~~ may adopt ~~make~~ rules to define underserved



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158 and critical need areas. The department shall adopt rules for
159 the administration of continuing education requirements adopted
160 by the board ~~or the department when there is no board.~~

161 (13) Each continuing education provider shall provide to
162 the department, in an electronic format determined by the
163 department, information regarding the continuing education
164 status of licensees which the department determines is necessary
165 to carry out its duties under this chapter. After a licensee
166 completes a course, the information must be submitted
167 electronically by the continuing education provider to the
168 department within 30 calendar days after completion. However,
169 beginning on the 30th day before the renewal deadline or before
170 the renewal date, whichever occurs sooner, the continuing
171 education provider shall electronically report such information
172 to the department within 10 business days after completion.

173 (14) The department shall establish a system to monitor
174 licensee compliance with continuing education requirements and
175 to determine the continuing education status of each licensee.
176 As used in this subsection, the term "monitor" means the act of
177 determining, for each licensee, whether the licensee is in full
178 compliance with applicable continuing education requirements as
179 of the date of the licensee's application for license renewal.

180 (15) The department may refuse to renew a license until the
181 licensee has satisfied all applicable continuing education
182 requirements. This subsection does not preclude the department
183 or board from imposing additional penalties pursuant to this
184 chapter or rules adopted pursuant this chapter.

185 Section 9. Subsection (1) of section 472.0202, Florida
186 Statutes, is amended to read:



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187 472.0202 Inactive and delinquent status.—

188 (1) A licensee may practice a profession only if the
189 licensee has an active status license. A licensee who practices
190 a profession without an active status license is in violation of
191 this section and s. 472.0351 ~~472.033~~, and the board may impose
192 discipline on the licensee.

193 Section 10. Subsection (3) is added to section 472.0203,
194 Florida Statutes, to read:

195 472.0203 Renewal and cancellation notices.—

196 (3) Notwithstanding any other law, a licensure renewal
197 notification required to be sent to the last known address of
198 record may be sent by the department to the licensee by
199 electronic means if the licensee has provided an e-mail address
200 to the department.

201 Section 11. Subsection (2) of section 472.025, Florida
202 Statutes, is amended to read:

203 472.025 Seals.—

204 (2) It is unlawful for a ~~any~~ person to stamp, seal, or
205 digitally sign a ~~any~~ document with a seal or digital signature
206 after his or her certificate of registration has expired or been
207 revoked or suspended, unless such certificate of registration
208 has been reinstated or reissued. When a ~~the~~ certificate of
209 registration ~~of a registrant~~ has been revoked or suspended by
210 the board, the registrant shall, within ~~a period of~~ 30 days
211 after the revocation or suspension has become effective,
212 surrender his or her seal to the executive director ~~secretary~~ of
213 the board and confirm to the executive director ~~secretary~~ the
214 cancellation of the registrant's digital signature in accordance
215 with ss. 668.001-668.006. If ~~In the event~~ the registrant's



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216 certificate has been suspended for a period of time, his or her
217 seal shall be returned to him or her upon expiration of the
218 suspension period.

219 Section 12. Section 472.0337, Florida Statutes, is created
220 to read:

221 472.0337 Power to administer oaths, take depositions, and
222 issue subpoenas.—For the purpose of an investigation or
223 proceeding conducted by the department, the department shall
224 administer oaths, take depositions, make inspections, issue
225 subpoenas which must be supported by affidavit, serve subpoenas
226 and other process, and compel the attendance of witnesses and
227 the production of books, papers, documents, and other evidence.
228 Challenges to, and enforcement of, the subpoenas and orders
229 shall be conducted as provided in s. 120.569.

230 Section 13. Section 472.0351, Florida Statutes, is amended
231 to read:

232 472.0351 Grounds for discipline; penalties; enforcement.—

233 (1) The following acts ~~shall~~ constitute grounds for which
234 the disciplinary actions specified in subsection (2) may be
235 taken:

236 (a) Violation of any provision of s. 472.031;

237 (b) Attempting to procure a license to practice surveying
238 and mapping by bribery or fraudulent misrepresentations;

239 (c) Having a license to practice surveying and mapping
240 revoked, suspended, or otherwise acted against, including the
241 denial of licensure, by the licensing authority of another
242 state, territory, or country, for a violation that constitutes a
243 violation under the laws of this state. The acceptance of a
244 relinquishment of licensure, stipulation, consent order, or



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245 other settlement offered in response to or in anticipation of
246 the filing of charges against the license by a licensing
247 authority is an action against the license;

248 (d) Being convicted or found guilty of, or entering a plea
249 of guilty, no contest, or nolo contendere to, regardless of
250 adjudication, a crime in any jurisdiction which directly relates
251 to the practice of surveying and mapping or the ability to
252 practice surveying and mapping;

253 (e) Making or filing a report or record that the licensee
254 knows to be false, willfully failing to file a report or record
255 required by state or federal law, willfully impeding or
256 obstructing such filing, or inducing another person to impede or
257 obstruct such filing. Such reports or records ~~shall~~ include only
258 those that are signed in the capacity of a registered surveyor
259 and mapper;

260 (f) Advertising goods or services in a manner that is
261 fraudulent, false, deceptive, or misleading in form or content;

262 (g) Upon proof that the licensee is guilty of fraud or
263 deceit, or of negligence, incompetency, or misconduct, in the
264 practice of surveying and mapping;

265 (h) Failing to perform a ~~any~~ statutory or legal obligation
266 placed upon a licensed surveyor and mapper; violating a ~~any~~
267 provision of this chapter, a rule of the board or department, or
268 a lawful order of the board or department ~~previously entered in~~
269 ~~a disciplinary hearing~~; or failing to comply with a lawfully
270 issued subpoena of the department;

271 (i) Practicing on a revoked, suspended, inactive, or
272 delinquent license;

273 ~~(j) Making misleading, deceptive, or fraudulent~~



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274 ~~representations in or related to the practice of the licensee's~~
275 ~~profession;~~

276 ~~(k) Intentionally violating any rule adopted by the board~~
277 ~~or the department, as appropriate;~~

278 ~~(l) Having a license or the authority to practice the~~
279 ~~regulated profession revoked, suspended, or otherwise acted~~
280 ~~against, including the denial of licensure, by the licensing~~
281 ~~authority of any jurisdiction, including its agencies or~~
282 ~~subdivisions, for a violation that would constitute a violation~~
283 ~~under Florida law;~~

284 ~~(j)(m)~~ Having been found liable in a civil proceeding for
285 knowingly filing a false report or complaint with the department
286 against another licensee;

287 ~~(k)(n)~~ Failing to report to the department any person who
288 the licensee knows is in violation of this chapter or the rules
289 of the department or the board;

290 ~~(l)(o)~~ Aiding, assisting, procuring, employing, or advising
291 any unlicensed person or entity to practice surveying and
292 mapping contrary to this chapter or the rules of the department
293 or the board;

294 ~~(m)(p)~~ Making deceptive, untrue, or fraudulent
295 representations in or related to the practice of professional
296 surveying or mapping ~~a profession~~ or employing a trick or scheme
297 in or related to the practice of professional surveying or
298 mapping ~~a profession;~~

299 ~~(n)(q)~~ Exercising influence on the client for the purpose
300 of financial gain of the licensee or a third party;

301 ~~(o)(r)~~ Practicing or offering to practice beyond the scope
302 permitted by law or accepting and performing professional



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303 responsibilities the licensee knows, or has reason to know, the
304 licensee is not competent to perform;

305 (p) ~~(s)~~ Delegating or contracting for the performance of
306 professional responsibilities by a person when the licensee
307 delegating or contracting for performance of such
308 responsibilities knows, or has reason to know, such person is
309 not qualified by training, experience, and authorization when
310 required to perform them; or

311 ~~(t) Violating this chapter, the applicable professional~~
312 ~~practice act, a rule of the department or the board, or a lawful~~
313 ~~order of the department or the board, or failing to comply with~~
314 ~~a lawfully issued subpoena of the department; or~~

315 (q) ~~(u)~~ Improperly interfering with an investigation or
316 inspection authorized by statute, or with any disciplinary
317 proceeding.

318 (2) If ~~When~~ the board finds a ~~any~~ surveyor or mapper guilty
319 of any of the grounds set forth in subsection (1) or a violation
320 of this chapter which occurred before obtaining a license, the
321 board ~~it~~ may enter an order imposing one or more of the
322 following penalties:

323 (a) Denial of an application for licensure, or approval of
324 an application for licensure with restrictions.

325 (b) Revocation or suspension of a license.

326 (c) Imposition of an administrative fine not to exceed
327 \$1,000 for each count or separate offense.

328 (d) Issuance of a reprimand.

329 (e) Placement of the surveyor or mapper on probation for a
330 period of time and subject to such conditions as the board may
331 specify. Those conditions may include, but are not limited to,



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332 requiring the licensee to undergo treatment, attend continuing
333 education courses, submit to be reexamined, work under the
334 supervision of another licensee, or satisfy any terms which are
335 reasonably tailored to the violations found.

336 (f) Restriction of the authorized scope of practice by the
337 surveyor or mapper.

338 (g) Corrective action.

339 (3) The department shall reissue the license of a
340 disciplined surveyor or mapper upon certification by the board
341 that he or she has complied with all of the terms and conditions
342 set forth in the final order.

343 (4) (a) In addition to any other discipline imposed pursuant
344 to this section, the board may assess costs and attorney
345 ~~attorneys~~ fees related to the investigation and prosecution of
346 the case.

347 (b) In any case where the board or the department imposes a
348 fine or assessment and the fine or assessment is not paid within
349 a reasonable time, which may ~~such reasonable time to be~~
350 prescribed in the rules of the board or in the order assessing
351 such fines or costs, the department or the Department of Legal
352 Affairs may contract for the collection of, or bring a civil
353 action to recover, the fine or assessment.

354 (c) The department may not issue to or renew the license of
355 any person or business entity against which the board has
356 assessed a fine, interest, costs, or attorney fees associated
357 with an investigation and prosecution until the person or
358 business entity has paid the full amount due or complies with or
359 satisfies all terms and conditions of the final order.

360 ~~(5) In addition to, or in lieu of, any other remedy or~~



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361 ~~eriminal prosecution, the department may file a proceeding in~~
362 ~~the name of the state seeking issuance of an injunction or a~~
363 ~~writ of mandamus against any person who violates any of the~~
364 ~~provisions of this chapter, or any provision of law with respect~~
365 ~~to professions regulated by the department, or any board~~
366 ~~therein, or the rules adopted pursuant thereto.~~

367 (5)~~(6)~~ If the board determines that revocation of a license
368 is the appropriate penalty, the revocation shall be permanent.
369 However, the board may establish, by rule, requirements for
370 reapplication by applicants whose licenses have been permanently
371 revoked. Such requirements may include, but are ~~shall~~ not be
372 limited to, satisfying current requirements for an initial
373 license.

374 Section 14. Section 472.0357, Florida Statutes, is created
375 to read:

376 472.0357 Penalty for giving false information.—In addition
377 to, or in lieu of, any other disciplinary action imposed
378 pursuant to s. 472.0351, a person who knowingly gives false
379 information in the course of applying for or obtaining a license
380 from the department or the board, or who attempts to obtain or
381 obtains a license from the department or the board by knowingly
382 providing misleading statements or misrepresentations commits a
383 felony of the third degree, punishable as provided in s.
384 775.082, s. 775.083, or s. 775.084.

385 Section 15. Subsection (5) of section 493.6105, Florida
386 Statutes, is amended to read:

387 493.6105 Initial application for license.—

388 (5) In addition to the requirements outlined in subsection
389 (3), an applicant for a Class "G" license must satisfy minimum



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390 training criteria for firearms established by rule of the
391 department, which training criteria includes, but is not limited
392 to, 28 hours of range and classroom training taught and
393 administered by a Class "K" licensee; however, no more than 8
394 hours of such training shall consist of range training. The
395 department may waive the foregoing firearms training requirement
396 if:

397 (a) The applicant provides proof that he or she is
398 currently certified as a law enforcement officer or correctional
399 officer pursuant to the requirements of the Criminal Justice
400 Standards and Training Commission or has successfully completed
401 the training required for certification within the last 12
402 months.

403 (b) The applicant provides proof that he or she is
404 currently certified as a federal law enforcement officer and has
405 received law enforcement firearms training administered by a
406 federal law enforcement agency.

407 (c) The applicant submits a valid firearm certificate among
408 those specified in paragraph (6) (a). ~~If the applicant submits~~
409 ~~proof that he or she is an active law enforcement officer~~
410 ~~currently certified under the Criminal Justice Standards and~~
411 ~~Training Commission or has completed the training required for~~
412 ~~that certification within the last 12 months, or if the~~
413 ~~applicant submits one of the certificates specified in paragraph~~
414 ~~(6) (a), the department may waive the foregoing firearms training~~
415 ~~requirement.~~

416 Section 16. Paragraph (b) of subsection (3) of section
417 493.6113, Florida Statutes, is amended to read:

418 493.6113 Renewal application for licensure.-



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419 (3) Each licensee is responsible for renewing his or her
420 license on or before its expiration by filing with the
421 department an application for renewal accompanied by payment of
422 the prescribed license fee.

423 (b) Each Class "G" licensee shall additionally submit proof
424 that he or she has received during each year of the license
425 period a minimum of 4 hours of firearms recertification training
426 taught by a Class "K" licensee and has complied with such other
427 health and training requirements which the department may adopt
428 by rule. If proof of a minimum of 4 hours of annual firearms
429 recertification training cannot be provided, the renewal
430 applicant shall complete the minimum number of hours of range
431 and classroom training required at the time of initial
432 licensure. The department may waive the foregoing firearms
433 training requirement if:

434 1. The applicant provides proof that he or she is currently
435 certified as a law enforcement officer or correctional officer
436 under the Criminal Justice Standards and Training Commission and
437 has completed law enforcement firearms requalification training
438 annually during the previous 2 years of the licensure period.

439 2. The applicant provides proof that he or she is currently
440 certified as a federal law enforcement officer and has received
441 law enforcement firearms training administered by a federal law
442 enforcement agency annually during the previous 2 years of the
443 licensure period.

444 3. The applicant submits a valid firearm certificate among
445 those specified in s. 493.6105(6) (a) and provides proof of
446 having completed requalification training during the previous 2
447 years of the licensure period.



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448 Section 17. Subsection (6) of section 493.6118, Florida
449 Statutes, is amended to read:

450 493.6118 Grounds for disciplinary action.—

451 (6) The agency or Class "DS" or "RS" license and the
452 approval or license of each officer, partner, or owner of the
453 agency, school, or training facility are automatically suspended
454 upon entry of a final order imposing an administrative fine
455 against the agency, school, or training facility, until the fine
456 is paid, if 30 calendar days have elapsed since the entry of the
457 final order. All owners and corporate or agency officers or
458 partners are jointly and severally liable for ~~agency~~ fines
459 levied against the agency, school, or training facility. ~~Neither~~
460 The agency or Class "DS" or "RS" license or the approval or
461 license of any officer, partner, or owner of the agency, school,
462 or training facility may not be renewed, and ~~nor may~~ an
463 application may not be approved, if the owner, licensee, or
464 applicant is liable for an outstanding administrative fine
465 imposed under this chapter. An individual's approval or license
466 becomes automatically suspended if a fine imposed against the
467 individual or his or her agency is not paid within 30 days after
468 the date of the final order, and remains suspended until the
469 fine is paid. Notwithstanding the provisions of this subsection,
470 an individual's approval or license may not be suspended and ~~nor~~
471 ~~may~~ an application may not be denied if ~~when~~ the licensee or the
472 applicant has an appeal from a final order pending in any
473 appellate court.

474 Section 18. Subsection (4) of section 493.6120, Florida
475 Statutes, is amended to read:

476 493.6120 Violations; penalty.—



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477 (4) A ~~Any~~ person who was an owner, officer, partner, or
478 manager of a licensed agency or a Class "DS" or "RS" school or
479 training facility at the time of any activity that is the basis
480 for revocation of the agency or branch office license or the
481 school or training facility license and who knew or should have
482 known of the activity, shall have his or her personal licenses
483 or approval suspended for 3 years and may not have any financial
484 interest in or be employed in any capacity by a licensed agency
485 or a school or training facility during the period of
486 suspension.

487 Section 19. Subsection (7) of section 501.015, Florida
488 Statutes, is amended to read:

489 501.015 Health studios; registration requirements and
490 fees.—Each health studio shall:

491 (7) A ~~Any~~ person applying for or renewing a local business
492 tax receipt ~~occupational license~~ to engage in business as a
493 health studio must exhibit an active registration certificate
494 from the Department of Agriculture and Consumer Services before
495 the local business tax receipt ~~occupational license~~ may be
496 issued or reissued.

497 Section 20. Subsection (1) of section 501.017, Florida
498 Statutes, is amended to read:

499 501.017 Health studios; contracts.—

500 (1) Each ~~Every~~ contract for the sale of future health
501 studio services which is paid for in advance or which the buyer
502 agrees to pay for in future installment payments shall be in
503 writing and shall contain, contractual provisions to the
504 contrary notwithstanding, in immediate proximity to the space
505 reserved in the contract for the signature of the buyer, and in



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506 at least 10-point boldfaced type, language substantially
507 equivalent to the following:

508 (a) A provision for the penalty-free cancellation of the
509 contract within 3 days, exclusive of holidays and weekends, of
510 its making, upon the mailing or delivery of written notice to
511 the health studio, and refund upon such notice of all moneys
512 paid under the contract, except that the health studio may
513 retain an amount computed by dividing the number of complete
514 days in the contract term or, if appropriate, the number of
515 occasions health studio services are to be rendered into the
516 total contract price and multiplying the result by the number of
517 complete days that have passed since the making of the contract
518 or, if appropriate, by the number of occasions that health
519 studio services have been rendered. A refund shall be issued
520 within 30 days after receipt of the notice of cancellation made
521 within the 3-day provision.

522 (b)1. A provision for the cancellation and refund of the
523 contract if the contracting business location of the health
524 studio goes out of business, or moves its facilities more than 5
525 driving miles from the business location designated in the ~~such~~
526 contract and fails to provide, within 30 days, a facility of
527 equal quality located within 5 driving miles of the business
528 location designated in the ~~such~~ contract at no additional cost
529 to the buyer.

530 2. A provision that notice of intent to cancel by the buyer
531 shall be given in writing to the health studio. The ~~Such a~~
532 notice of cancellation from the consumer terminates ~~shall also~~
533 ~~terminate~~ automatically the consumer's obligation to any entity
534 to whom the health studio has subrogated or assigned the



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535 consumer's contract. If the health studio wishes to enforce the
536 ~~such~~ contract after receipt of the notice ~~such showing~~, it may
537 request the department to determine the sufficiency of the
538 notice ~~showing~~.

539 3. A provision that if the department determines that a
540 refund is due the buyer, the refund shall be an amount computed
541 by dividing the contract price by the number of weeks in the
542 contract term and multiplying the result by the number of weeks
543 remaining in the contract term. The business location of a
544 health studio may ~~shall~~ not be deemed out of business when
545 temporarily closed for repair and renovation of the premises:

- 546 a. Upon sale, for not more than 14 consecutive days; or
- 547 b. During ownership, for not more than 7 consecutive days
- 548 and not more than two periods of 7 consecutive days in any
- 549 calendar year.

550
551 A refund shall be issued within 30 days after receipt of the
552 notice of cancellation made pursuant to this paragraph.

553 (c) A provision in the disclosure statement advising the
554 buyer to contact the department for information within 60 days
555 should the health studio go out of business.

556 (d) A provision for the cancellation of the contract if the
557 buyer dies or becomes physically unable to avail himself or
558 herself of a substantial portion of those services which he or
559 she used from the commencement of the contract until the time of
560 disability, with refund of funds paid or accepted in payment of
561 the contract in an amount computed by dividing the contract
562 price by the number of weeks in the contract term and
563 multiplying the result by the number of weeks remaining in the



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564 contract term. The contract may require a buyer or the buyer's
565 estate seeking relief under this paragraph to provide proof of
566 disability or death. A physical disability sufficient to warrant
567 cancellation of the contract by the buyer is ~~shall be~~
568 established if the buyer furnishes to the health studio a
569 certification of such disability by a physician licensed under
570 chapter 458, chapter 459, chapter 460, or chapter 461 to the
571 extent the diagnosis or treatment of the disability is within
572 the physician's scope of practice. A refund shall be issued
573 within 30 days after receipt of the notice of cancellation made
574 pursuant to this paragraph.

575 (e) A provision that the initial contract will not be for a
576 period in excess of 36 months, and thereafter shall only be
577 renewable annually. A ~~Such~~ renewal contract ~~contracts~~ may not be
578 executed and the fee therefor paid until 60 days or less before
579 the previous ~~preceding~~ contract expires.

580 (f) A provision that if the health studio requires a buyer
581 to furnish identification upon entry to the facility and as a
582 condition of using the services of the health studio, the health
583 studio shall provide the buyer with the means of such
584 identification.

585 Section 21. Paragraphs (e) through (i) of subsection (1) of
586 section 501.059, Florida Statutes, are redesignated as
587 paragraphs (d) through (h), respectively, and present paragraph
588 (d) of subsection (1) and subsections (3), (8), and (10) of that
589 section are amended to read:

590 501.059 Telephone solicitation.—

591 (1) As used in this section:

592 ~~(d) "Commission" means the Florida Public Service~~



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593 ~~Commission.~~

594 (3) (a) If any residential, mobile, or telephonic paging
595 device telephone subscriber notifies the department of his or
596 her desire ~~desiring~~ to be placed on a "no sales solicitation
597 calls" listing indicating that the subscriber does not wish to
598 receive unsolicited telephonic sales calls, ~~may notify~~ the
599 department shall place the subscriber and be placed on that
600 listing for 5 years upon receipt by the department of a \$10
601 initial listing charge. This listing shall be renewed by the
602 department annually for each consumer upon receipt of a renewal
603 notice and a \$5 assessment.

604 (b) The department shall update its "no sales solicitation
605 calls" listing upon receipt of initial consumer subscriptions or
606 renewals and provide this listing for a fee to telephone
607 solicitors upon request.

608 (c) All fees imposed pursuant to this section shall be
609 deposited in the General Inspection Trust Fund for the
610 administration of this section.

611 (d) If the Federal Trade Commission, pursuant to 15 U.S.C.
612 s. 6102(a), establishes a national database that lists the
613 telephone numbers of subscribers who object to receiving
614 telephone solicitations, the department shall include those
615 listings from the national database which relate to Florida in
616 the listing established under this section.

617 (8) (a) The department shall investigate any complaints
618 received concerning violations of this section. If, after
619 investigating any complaint, the department finds that there has
620 been a violation of this section, the department or the
621 Department of Legal Affairs may bring an action to impose a



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622 civil penalty and to seek other relief, including injunctive
623 relief, as the court deems appropriate against the telephone
624 solicitor. The civil penalty may ~~shall~~ not exceed \$10,000 per
625 violation and shall be deposited in the General Inspection Trust
626 Fund if the action or proceeding was brought by the department,
627 or the Legal Affairs Revolving Trust Fund if the action or
628 proceeding was brought by the Department of Legal Affairs. This
629 civil penalty may be recovered in any action brought under this
630 part by the department, or the department may terminate any
631 investigation or action upon agreement by the person to pay a
632 stipulated civil penalty. The department or the court may waive
633 any civil penalty if the person has previously made full
634 restitution or reimbursement or has paid actual damages to the
635 consumers who have been injured by the violation.

636 (b) The department may, as an alternative to the civil
637 penalties provided in paragraph (a), impose an administrative
638 fine not to exceed \$1,000 for each act or omission that
639 constitutes a violation of this section. An administrative
640 proceeding that could result in the entry of an order imposing
641 an administrative penalty must be conducted in accordance with
642 chapter 120.

643 ~~(10) The commission shall by rule ensure that~~
644 Telecommunications companies shall inform their customers of the
645 provisions of this section. The notification may be made by:

646 (a) Annual inserts in the billing statements mailed to
647 customers; and

648 (b) Conspicuous publication of the notice in the consumer
649 information pages of the local telephone directories.

650 Section 22. Paragraphs (a) and (1) of subsection (2) of



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651 section 501.605, Florida Statutes, are amended to read:

652 501.605 Licensure of commercial telephone sellers.—

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

657 (a) The true name, date of birth, driver ~~driver's~~ license
658 number or other valid form of identification, ~~social security~~
659 ~~number~~, and home address of the applicant, including each name
660 under which he or she intends to do business.

661 (1) The true name, current home address, date of birth,
662 ~~social security number~~, and all other names by which known, or
663 previously known, of each:

664 1. Principal officer, director, trustee, shareholder,
665 owner, or partner of the applicant, and of each other person
666 responsible for the management of the business of the applicant.

667 2. Office manager or other person principally responsible
668 for a location from which the applicant will do business.

669 3. Salesperson or other person to be employed by the
670 applicant.

671
672 The application shall be accompanied by a copy of any: Script,
673 outline, or presentation the applicant will require or suggest a
674 salesperson to use when soliciting, or, if no such document is
675 used, a statement to that effect; sales information or
676 literature to be provided by the applicant to a salesperson; and
677 sales information or literature to be provided by the applicant
678 to a purchaser in connection with any solicitation.

679 Section 23. Paragraph (a) of subsection (1) of section



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680 501.607, Florida Statutes, is amended to read:

681 501.607 Licensure of salespersons.—

682 (1) An applicant for a license as a salesperson must submit
683 to the department, in such form as it prescribes, a written
684 application for a license. The application must set forth the
685 following information:

686 (a) The true name, date of birth, driver ~~driver's~~ license
687 number or other valid form of identification, ~~social security~~
688 ~~number~~, and home address of the applicant.

689 Section 24. Section 501.911, Florida Statutes, is amended
690 to read:

691 501.911 Administration of act.—Sections 501.91-501.923
692 shall be administered by ~~the Division of Standards of the~~
693 Department of Agriculture and Consumer Services.

694 Section 25. Subsections (1) and (2) of section 501.913,
695 Florida Statutes, are amended to read:

696 501.913 Registration.—

697 (1) Each brand of antifreeze to be distributed in this
698 state shall be registered with the department before ~~prior to~~
699 distribution. The person whose name appears on the label, the
700 manufacturer, or the packager shall make application to the
701 department on forms provided by the department no later than
702 July 1 of each year. The registrant assumes, by application to
703 register the brand, full responsibility for the registration,
704 quality, and quantity of the product sold, offered, or exposed
705 for sale in this state. If a registered brand is not in
706 production for distribution in this state and to ensure any
707 remaining product that is still available for sale in the state
708 is properly registered, the registrant must submit a notarized



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709 affidavit on company letterhead to the department certifying
710 that:

711 (a) The stated brand is no longer in production;

712 (b) The stated brand will not be distributed in this state;

713 and

714 (c) All existing product of the stated brand will be
715 removed by the registrant from the state within 30 days after
716 expiration of the registration or the registrant will reregister
717 the brand for two subsequent registration periods.

718
719 If production resumes, the brand must be reregistered before it
720 is distributed in this state.

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

722 (a) Specimens or facsimiles of the label for each brand of
723 antifreeze;

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

725 (c) A properly labeled sample of between 1 and 2 gallons
726 for each brand of antifreeze.

727 Section 26. Subsection (3) of section 507.04, Florida
728 Statutes, is amended to read:

729 507.04 Required insurance coverages; liability limitations;
730 valuation coverage.—

731 (3) INSURANCE COVERAGES.—The insurance coverages required
732 under paragraph (1) (a) and subsection (2) must be issued by an
733 insurance company or carrier licensed to transact business in
734 this state under the Florida Insurance Code as designated in s.
735 624.01. The department shall require a mover to present a
736 certificate of insurance of the required coverages before
737 issuance or renewal of a registration certificate under s.



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738 507.03. The department shall be named as a certificateholder in
739 the certificate and must be notified at least 10 ~~30~~ days before
740 cancellation of ~~any changes in~~ insurance coverage.

741 Section 27. Subsection (7) of section 525.07, Florida
742 Statutes, is amended to read:

743 525.07 Powers and duties of department; inspections;
744 unlawful acts.—

745 (7) It is unlawful for any person to break, cut, or remove
746 any seal applied by the department to a petroleum fuel measuring
747 device or container. If ~~When~~ it becomes necessary to repair and
748 adjust a petroleum fuel measuring device during the absence of
749 an inspector of the department, the seal on the meter adjustment
750 may be broken by a person who is registered with the department
751 as a meter mechanic. After repairs and adjustments have been
752 made, the adjusting mechanism must immediately be resealed by
753 the registered meter mechanic with a seal clasp bearing at least
754 ~~the name of the company or~~ the name or initials of the
755 registered mechanic. The registered mechanic shall immediately
756 notify the department of this action.

757 Section 28. Subsection (5) of section 526.143, Florida
758 Statutes, is amended to read:

759 526.143 Alternate generated power capacity for motor fuel
760 dispensing facilities.—

761 (5) (a) Each corporation or other entity that owns 10 or
762 more motor fuel retail outlets located within a single county
763 shall maintain at least one portable generator that is capable
764 of providing an alternate generated power source as required
765 under subsection (2) for every 10 outlets. If an entity owns
766 more than 10 outlets or a multiple of 10 outlets plus an



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767 additional 6 outlets, the entity must provide one additional
768 generator to accommodate such additional outlets. Each portable
769 generator must be stored within this state, or may be stored in
770 another state if located within 250 miles of this state, and
771 must be available for use in an affected location within 24
772 hours after a disaster.

773 (b) Each corporation or other entity that owns 10 or more
774 motor fuel retail outlets located within a single domestic
775 security region, as determined pursuant to s. 943.0312(1), and
776 that does not own additional outlets located outside the
777 domestic security region shall maintain a written document of
778 agreement with one or more similarly equipped entities for the
779 use of portable generators that may be used to meet the
780 requirements of paragraph (a) and that are located within this
781 state but outside the affected domestic security region. The
782 agreement may be reciprocal, may allow for payment for services
783 rendered by the providing entity, and must guarantee the
784 availability of the portable generators to an affected location
785 within 24 hours after a disaster.

786 (c) Upon written request, the department may temporarily
787 waive the requirements in paragraphs (a) and (b) if the
788 generators are used in preparation for or response to an
789 emergency or major disaster in another state. The waiver shall
790 be in writing and include a beginning and ending date. The
791 waiver may provide additional conditions as deemed necessary by
792 the department. The waiver may be modified or terminated by the
793 department if the Governor declares an emergency.

794 (d) ~~(e)~~ For purposes of this section, ownership of a motor
795 fuel retail outlet is ~~shall be~~ the owner of record of the fuel



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796 storage systems operating at the location, as identified in the
797 Department of Environmental Protection underground storage
798 facilities registry pursuant to s. 376.303(1).

799 Section 29. Subsections (8) and (9) are added to section
800 526.50, Florida Statutes, to read:

801 526.50 Definition of terms.—As used in this part:

802 (8) "Brand" means the product name appearing on the label
803 of a container of brake fluid.

804 (9) "Formula" means the name of the chemical mixture or
805 composition of the brake fluid product.

806 Section 30. Subsections (1) and (3) of section 526.51,
807 Florida Statutes, are amended to read:

808 526.51 Registration; renewal and fees; departmental
809 expenses; cancellation or refusal to issue or renew.—

810 (1) (a) Application for registration of each brand of brake
811 fluid shall be made on forms ~~to be~~ supplied by the department.
812 The applicant shall give his or her name and address and the
813 brand name of the brake fluid, state that he or she owns the
814 brand name and has complete control over the product sold
815 thereunder in this state Florida, and provide the name and
816 address of the resident agent in this state Florida. If the
817 applicant does not own the brand name but wishes to register the
818 product with the department, a notarized affidavit that gives
819 the applicant full authorization to register the brand name and
820 that is signed by the owner of the brand name must accompany the
821 application for registration. The affidavit must include all
822 affected brand names, the owner's company or corporate name and
823 address, the applicant's company or corporate name and address,
824 and a statement from the owner authorizing the applicant to



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825 register the product with the department. The owner of the brand
826 name shall maintain complete control over each product sold
827 under that brand name in this state. All first-time new product
828 applications for a brand and formula combination must be
829 accompanied by a certified report from an independent testing
830 laboratory, setting forth the analysis of the brake fluid which
831 shows ~~shall show~~ its quality to be not less than the
832 specifications established by the department for brake fluids. A
833 sample of not less than 24 fluid ounces of brake fluid shall be
834 submitted, in a container or containers, with labels
835 representing exactly how the containers of brake fluid will be
836 labeled when sold, and the sample and container shall be
837 analyzed and inspected by the department ~~Division of Standards~~
838 in order that compliance with the department's specifications
839 and labeling requirements may be verified. Upon approval of the
840 application, the department shall register the brand name of the
841 brake fluid and issue to the applicant a permit authorizing the
842 registrant to sell the brake fluid in this state during the
843 permit year specified in the permit.

844 (b) Each applicant shall pay a fee of \$100 with each
845 application. A permit may be renewed by application to the
846 department, accompanied by a renewal fee of \$50 on or before the
847 last day of the permit year immediately preceding the permit
848 year for which application is made for renewal of registration.
849 To reregister a previously registered brand and formula
850 combination, an applicant must submit a completed application
851 and all materials as required in this section to the department
852 before the first day of the permit year. A brand and formula
853 combination for which a completed application and all materials



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854 required in this section are not received before the first day
855 of the permit year may not be registered with the department
856 until a completed application and all materials required in this
857 section have been received and approved. If the brand and
858 formula combination was previously registered with the
859 department and a fee, application, or materials required in this
860 section are received after the first day of the permit year, ~~to~~
861 ~~any fee not paid when due, there shall accrue~~ a penalty of \$25
862 ~~accrues,~~ which shall be added to the ~~renewal~~ fee. Renewals shall
863 will be accepted only on brake fluids that have no change in
864 formula, composition, or brand name. Any change in formula,
865 composition, or brand name of any brake fluid constitutes a new
866 product that must be registered in accordance with this part.

867 (c) In order to ensure that any remaining product still
868 available for sale in this state is properly registered, if a
869 registered brand and formula combination is no longer in
870 production for distribution in this state, the registrant must
871 submit a notarized affidavit on company letterhead to the
872 department certifying that:

873 1. The stated brand and formula combination is no longer in
874 production;

875 2. The stated brand and formula combination will not be
876 distributed in this state; and

877 3. All existing product of the stated brand and formula
878 combination will be removed by the registrant from the state
879 within 30 days after the expiration of the registration or that
880 the registrant will reregister the brand and formula combination
881 for two subsequent registration periods.

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883 If production resumes, the brand and formula combination must be
884 reregistered before it is again distributed in this state.

885 (3) The department may cancel or, refuse to issue ~~or refuse~~
886 ~~to renew~~ any registration and permit after due notice and
887 opportunity to be heard if it finds that the brake fluid is
888 adulterated or misbranded or that the registrant has failed to
889 comply with the provisions of this part or the rules adopted
890 pursuant to this section and ~~regulations promulgated thereunder.~~

891 Section 31. Paragraph (a) of subsection (3) of section
892 526.52, Florida Statutes, is amended to read:

893 526.52 Specifications; adulteration and misbranding.—

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

895 (a) If its container does not bear on its side or top a
896 label on which is printed the name and place of business of the
897 registrant of the product, the words "brake fluid," and a
898 statement that the product therein equals or exceeds the minimum
899 specification of the Society of Automotive Engineers for brake
900 fluid, heavy-duty-type, the United States Department of
901 Transportation Motor Vehicle Safety Standard No. 116, or other
902 specified standard identified in department rule. ~~By regulation~~
903 The department may require by rule that the duty-type
904 classification appear on the label.

905 Section 32. Subsections (1) and (2) of section 526.53,
906 Florida Statutes, are amended to read:

907 526.53 Enforcement; inspection and analysis, stop-sale and
908 disposition, regulations.—

909 (1) The department shall enforce the provisions of this
910 part through the department ~~Division of Standards~~, and may
911 sample, inspect, analyze, and test any brake fluid manufactured,



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912 packed, or sold within this state. The department shall have
913 free access during business hours to all premises, buildings,
914 vehicles, cars, or vessels used in the manufacture, packing,
915 storage, sale, or transportation of brake fluid, and may open
916 any box, carton, parcel, or container of brake fluid and take
917 samples for inspection and analysis or for evidence.

918 (2) (a) If ~~When~~ any brake fluid is sold in violation of any
919 of the provisions of this part, all such brake fluid of the same
920 brand name ~~on the same premises on which the violation occurred~~
921 shall be placed under a stop-sale order by the department by
922 servicing the owner of the brand name, the distributor, or other
923 entity responsible for selling or distributing the product in
924 this state with the stop-sale order. The department shall
925 withdraw its stop-sale order upon the removal of the violation
926 or upon voluntary destruction of the product, or other disposal
927 approved by the department, under the supervision of the
928 department.

929 (b) In addition to being subject to the stop-sale
930 procedures ~~above~~, unregistered brake fluid shall be held by the
931 department or its representative, at a place to be designated in
932 the stop-sale order, until properly registered and released in
933 writing by the department or its representative. If application
934 has not been made for registration of such product within 30
935 days after issue of the stop-sale order, the department or, with
936 the consent of the department, the representative may give the
937 product that meets legal specifications ~~such product shall be~~
938 ~~disposed of by the department~~ to any tax-supported institution
939 or agency of the state. If application has not been made for
940 registration of the product within 30 days after issuance of the



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941 stop-order sale and the product fails to meet legal
942 specifications, the product may be disposed of as if the brake
943 fluid meets legal specifications or by other disposal authorized
944 by rule of the department if it fails to meet legal
945 specifications.

946 Section 33. Section 526.55, Florida Statutes, is amended to
947 read:

948 526.55 Violation and penalties.—

949 (1) It is unlawful:

950 (a) ~~(1)~~ To sell any brake fluid that is adulterated or
951 misbranded, not registered or on which a permit has not been
952 issued.

953 (b) ~~(2)~~ For anyone to remove any stop-sale order placed on a
954 product by the department, or any product upon which a stop-sale
955 order has been placed.

956 (2) If the department finds that a person has violated or
957 is operating in violation of ss. 526.50-526.56 or the rules or
958 orders adopted thereunder, the department may, by order:

959 (a) Issue a notice of noncompliance pursuant to s. 120.695;

960 (b) Impose an administrative fine not to exceed \$5,000 for
961 each violation;

962 (c) Direct that the person cease and desist specified
963 activities;

964 (d) Revoke or suspend a registration, or refuse to register
965 a product; or

966 (e) Place the registrant on probation for a period of time,
967 subject to conditions as the department may specify.

968 (3) The administrative proceedings seeking entry of an
969 order imposing any of the penalties specified in subsection (2)



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970 are governed by chapter 120.

971 (4) If a registrant is found to be in violation of ss.
972 526.50-526.56 and fails to pay a fine within 30 days after
973 imposition of the fine, the department may suspend all
974 registrations issued to the registrant by the department until
975 the fine is paid.

976 (5) All fines collected by the department under this
977 section shall be deposited into the General Inspection Trust
978 Fund.

979 ~~(3) Any person who violates any of the provisions of this~~
980 ~~part or any rule or regulation promulgated thereunder shall, for~~
981 ~~the first offense, be guilty of a misdemeanor of the second~~
982 ~~degree, punishable as provided in s. 775.082 or s. 775.083, and,~~
983 ~~for a second or subsequent offense, shall be guilty of a~~
984 ~~misdemeanor of the first degree, punishable as provided in s.~~
985 ~~775.082 or s. 775.083.~~

986 Section 34. Paragraph (b) of subsection (3) of section
987 539.001, Florida Statutes, is amended to read:

988 539.001 The Florida Pawnbroking Act.—

989 (3) LICENSE REQUIRED.—

990 (b) A licensee who seeks to move a pawnshop to another
991 location must give written notice 30 days' ~~prior written notice~~
992 ~~to the agency at least 30 days before the move by certified or~~
993 ~~registered mail, return receipt requested,~~ and the agency must
994 ~~then~~ amend the license to indicate the new location. The
995 licensee must also give such written notice to the appropriate
996 law enforcement official.

997 Section 35. Subsection (1) of section 559.805, Florida
998 Statutes, is amended to read:



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999 559.805 Filings with the department; disclosure of
1000 advertisement identification number.—

1001 (1) Every seller of a business opportunity shall annually
1002 file with the department a copy of the disclosure statement
1003 required by s. 559.803 before ~~prior to~~ placing an advertisement
1004 or making any other representation designed to offer to, sell
1005 to, or solicit an offer to buy a business opportunity from a
1006 prospective purchaser in this state and shall update this filing
1007 by reporting any material change in the required information
1008 within 30 days after the material change occurs. An
1009 advertisement is not placed in the state merely because the
1010 publisher circulates, or there is circulated on his or her
1011 behalf in the state, any bona fide newspaper or other
1012 publication of general, regular, and paid circulation which has
1013 had more than two-thirds of its circulation during the past 12
1014 months outside the state or because a radio or television
1015 program originating outside the state is received in the state.
1016 If the seller is required by s. 559.807 to provide a bond or
1017 establish a trust account or guaranteed letter of credit, he or
1018 she shall contemporaneously file with the department a copy of
1019 the bond, a copy of the formal notification by the depository
1020 that the trust account is established, or a copy of the
1021 guaranteed letter of credit. Every seller of a business
1022 opportunity shall file with the department a list of independent
1023 agents who will engage in the offer or sale of business
1024 opportunities on behalf of the seller in this state. This list
1025 must be kept current and shall include the following
1026 information: name, home and business address, telephone number,
1027 present employer, ~~social security number~~, and birth date. A ~~No~~



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1028 person may not ~~shall be allowed to~~ offer or sell business
1029 opportunities unless the required information has been provided
1030 to the department.

1031 Section 36. Subsection (7) of section 559.904, Florida
1032 Statutes, is amended to read:

1033 559.904 Motor vehicle repair shop registration;
1034 application; exemption.-

1035 (7) Any person applying for or renewing a local business
1036 tax receipt ~~occupational license on or after October 1, 1993,~~ to
1037 engage in business as a motor vehicle repair shop must exhibit
1038 an active registration certificate from the department before
1039 the local business tax receipt ~~occupational license~~ may be
1040 issued or renewed.

1041 Section 37. Section 559.922, Florida Statutes, is repealed.

1042 Section 38. Subsections (1), (3), and (4) of section
1043 559.928, Florida Statutes, are amended to read:

1044 559.928 Registration.-

1045 (1) Each seller of travel shall annually register with the
1046 department, providing: its legal business or trade name, mailing
1047 address, and business locations; the full names, addresses, and
1048 telephone numbers of its owners or corporate officers and
1049 directors and the Florida agent of the corporation; a statement
1050 whether it is a domestic or foreign corporation, its state and
1051 date of incorporation, its charter number, and, if a foreign
1052 corporation, the date it registered with this state ~~the State of~~
1053 ~~Florida~~, and business tax receipt ~~occupational license~~ where
1054 applicable; the date on which a seller of travel registered its
1055 fictitious name if the seller of travel is operating under a
1056 fictitious or trade name; the name of all other corporations,



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1057 business entities, and trade names through which each owner of
1058 the seller of travel operated, was known, or did business as a
1059 seller of travel within the preceding 5 years; a list of all
1060 authorized independent agents, including the agent's trade name,
1061 full name, mailing address, business address, and telephone
1062 numbers; the business location and address of each branch office
1063 and full name and address of the manager or supervisor; the
1064 certification required under s. 559.9285; and proof of purchase
1065 of adequate bond as required in this part. A certificate
1066 evidencing proof of registration shall be issued by the
1067 department and must be prominently displayed in the seller of
1068 travel's primary place of business.

1069 (3) Each independent agent shall annually file an affidavit
1070 with the department prior to engaging in business in this state.
1071 This affidavit must include the independent agent's full name,
1072 legal business or trade name, mailing address, business address,
1073 telephone number, ~~social security number~~, and the name ~~or names~~
1074 and address ~~addresses~~ of each seller of travel represented by
1075 the independent agent. A letter evidencing proof of filing must
1076 be issued by the department and must be prominently displayed in
1077 the independent agent's primary place of business. Each
1078 independent agent must also submit an annual registration fee of
1079 \$50. All moneys collected pursuant to the imposition of the fee
1080 shall be deposited by the Chief Financial Officer into the
1081 General Inspection Trust Fund of the Department of Agriculture
1082 and Consumer Services for the sole purpose of administrating
1083 this part. As used in this subsection, the term "independent
1084 agent" means a person who represents a seller of travel by
1085 soliciting persons on its behalf; who has a written contract



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1086 with a seller of travel which is operating in compliance with
1087 this part and any rules adopted thereunder; who does not receive
1088 a fee, commission, or other valuable consideration directly from
1089 the purchaser for the seller of travel; who does not at any time
1090 have any unissued ticket stock or travel documents in his or her
1091 possession; and who does not have the ability to issue tickets,
1092 vacation certificates, or any other travel document. The term
1093 "independent agent" does not include an affiliate of the seller
1094 of travel, as that term is used in s. 559.935(3), or the
1095 employees of the seller of travel or of such affiliates.

1096 (4) Any person applying for or renewing a local business
1097 tax receipt ~~occupational license~~ to engage in business as a
1098 seller of travel must exhibit a current registration certificate
1099 from the department before the local business tax receipt
1100 ~~occupational license~~ may be issued or reissued.

1101 Section 39. Paragraph (c) of subsection (3) of section
1102 559.9285, Florida Statutes, is amended to read:

1103 559.9285 Certification of business activities.—

1104 (3) The department shall specify by rule the form of each
1105 certification under this section which shall include the
1106 following information:

1107 (c) The legal name, any trade names or fictitious names,
1108 mailing address, physical address, telephone number or numbers,
1109 facsimile number or numbers, and all Internet and electronic
1110 contact information of every other commercial entity with which
1111 the certifying party engages in business or commerce that is
1112 related in any way to the certifying party's business or
1113 commerce with any terrorist state. The information disclosed
1114 pursuant to this paragraph does not constitute customer lists,



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1115 customer names, or trade secrets protected under s. 570.544(8)
1116 ~~570.544(7)~~.

1117 Section 40. Subsection (6) of section 559.935, Florida
1118 Statutes, is amended to read:

1119 559.935 Exemptions.—

1120 (6) The department shall request from the Airlines
1121 Reporting Corporation any information necessary to implement the
1122 provisions of subsection (2). Persons claiming an exemption
1123 under subsection (2) or subsection (3) must show a letter of
1124 exemption from the department before a local business tax
1125 receipt ~~occupational license~~ to engage in business as a seller
1126 of travel may be issued or reissued. If the department fails to
1127 issue a letter of exemption on a timely basis, the seller of
1128 travel shall submit to the department, through certified mail,
1129 an affidavit containing her or his name and address and an
1130 explanation of the exemption sought. Such affidavit may be used
1131 in lieu of a letter of exemption for the purpose of obtaining a
1132 business tax receipt ~~an occupational license~~. In any civil or
1133 criminal proceeding, the burden of proving an exemption under
1134 this section ~~is shall be~~ on the person claiming such exemption.
1135 A letter of exemption issued by the department ~~may shall~~ not be
1136 used in, and has ~~shall have~~ no bearing on, such proceedings.

1137 Section 41. Subsection (12) of section 570.29, Florida
1138 Statutes, is amended to read:

1139 570.29 Departmental divisions.—The department shall include
1140 the following divisions:

1141 ~~(12) Standards.~~

1142 Section 42. Sections 570.46 and 570.47, Florida Statutes,
1143 are repealed.



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1144 Section 43. Section 570.544, Florida Statutes, is amended
1145 to read:

1146 570.544 Division of Consumer Services; director; powers;
1147 processing of complaints; records.—

1148 (1) The director of the Division of Consumer Services shall
1149 be appointed by and serve at the pleasure of the commissioner.

1150 (2) The director shall supervise, direct, and coordinate
1151 the activities of the division and shall, under the direction of
1152 the department, enforce the provisions of chapters 472, 496,
1153 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849.

1154 (3)~~(2)~~ The Division of Consumer Services may:

1155 (a) Conduct studies and make analyses of matters affecting
1156 the interests of consumers.

1157 (b) Study the operation of laws for consumer protection.

1158 (c) Advise and make recommendations to the various state
1159 agencies concerned with matters affecting consumers.

1160 (d) Assist, advise, and cooperate with local, state, or
1161 federal agencies and officials in order to promote the interests
1162 of consumers.

1163 (e) Make use of the testing and laboratory facilities of
1164 the department for the detection of consumer fraud.

1165 (f) Report to the appropriate law enforcement officers any
1166 information concerning violation of consumer protection laws.

1167 (g) Assist, develop, and conduct programs of consumer
1168 education and consumer information through publications and
1169 other informational and educational material prepared for
1170 dissemination to the public, in order to increase the competence
1171 of consumers.

1172 (h) Organize and hold conferences on problems affecting



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1173 consumers.

1174 (i) Recommend programs to encourage business and industry
1175 to maintain high standards of honesty, fair business practices,
1176 and public responsibility in the production, promotion, and sale
1177 of consumer goods and services.

1178 (4)~~(3)~~ In addition to the powers, duties, and
1179 responsibilities authorized by this or any other chapter, the
1180 Division of Consumer Services shall serve as a clearinghouse for
1181 matters relating to consumer protection, consumer information,
1182 and consumer services generally. It shall receive complaints and
1183 grievances from consumers and promptly transmit them to the ~~that~~
1184 agency most directly concerned in order that the complaint or
1185 grievance may be expeditiously handled in the best interests of
1186 the complaining consumer. If no agency exists, the Division of
1187 Consumer Services shall seek a settlement of the complaint using
1188 formal or informal methods of mediation and conciliation and may
1189 seek any other resolution of the matter in accordance with its
1190 jurisdiction.

1191 (5)~~(4)~~ If any complaint received by the Division of
1192 Consumer Services concerns matters that ~~which~~ involve concurrent
1193 jurisdiction in more than one agency, duplicate copies of the
1194 complaint shall be referred to those offices deemed to have
1195 concurrent jurisdiction.

1196 (6)~~(5)~~ (a) Any agency, office, bureau, division, or board of
1197 state government receiving a complaint that ~~which~~ deals with
1198 consumer fraud or consumer protection and that ~~which~~ is not
1199 within the jurisdiction of the receiving agency, office, bureau,
1200 division, or board originally receiving it, shall immediately
1201 refer the complaint to the Division of Consumer Services.



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1202 (b) Upon receipt of such a complaint, the Division of
1203 Consumer Services shall make a determination of the proper
1204 jurisdiction to which the complaint relates and shall
1205 immediately refer the complaint to the agency, office, bureau,
1206 division, or board that ~~which~~ does have the proper regulatory or
1207 enforcement authority to deal with it.

1208 (7) ~~(6)~~ The office or agency to which a complaint has been
1209 referred shall within 30 days acknowledge receipt of the
1210 complaint. If an office or agency receiving a complaint
1211 determines that the matter presents a prima facie case for
1212 criminal prosecution or if the complaint cannot be settled at
1213 the administrative level, the complaint together with all
1214 supporting evidence shall be transmitted to the Department of
1215 Legal Affairs or other appropriate enforcement agency with a
1216 recommendation for civil or criminal action warranted by the
1217 evidence.

1218 (8) ~~(7)~~ The records of the Division of Consumer Services are
1219 public records. However, customer lists, customer names, and
1220 trade secrets are confidential and exempt from the provisions of
1221 s. 119.07(1). Disclosure necessary to enforcement procedures
1222 does ~~shall not violate~~ ~~be construed as violative of~~ this
1223 prohibition.

1224 (9) ~~(8)~~ ~~It shall be the duty of~~ The Division of Consumer
1225 Services shall ~~to~~ maintain records and compile summaries and
1226 analyses of consumer complaints and their eventual disposition,
1227 which data may serve as a basis for recommendations to the
1228 Legislature and to state regulatory agencies.

1229 Section 44. Paragraph (a) of subsection (8) of section
1230 616.242, Florida Statutes, is amended to read:



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1231 616.242 Safety standards for amusement rides.-

1232 (8) FEES.-

1233 (a) The department shall by rule establish fees to cover
1234 the costs and expenditures associated with the fair rides
1235 inspection program ~~Bureau of Fair Rides Inspection~~, including
1236 all direct and indirect costs. If there is not sufficient
1237 general revenue appropriated by the Legislature, the industry
1238 shall pay for the remaining cost of the program. The fees must
1239 be deposited in the General Inspection Trust Fund.

1240 Section 45. This act shall take effect July 1, 2012.

1241
1242 ===== T I T L E A M E N D M E N T =====

1243 And the title is amended as follows:

1244 Delete everything before the enacting clause
1245 and insert:

1246 A bill to be entitled
1247 An act relating to consumer services; amending s.
1248 20.14, F.S.; deleting provisions establishing the
1249 Division of Standards within the Department of
1250 Agriculture and Consumer Services; repealing s.
1251 366.85, F.S., relating to responsibilities of the
1252 department for compliance with certain federal
1253 requirements related to consumer conciliatory
1254 conferences and energy conservation products,
1255 services, and loans; amending s. 472.005, F.S.;
1256 redefining the term "license" and defining the terms
1257 "consumer member" and "licensee" for purposes of
1258 provisions governing surveyors and mappers; amending
1259 s. 472.006, F.S.; directing the Department of



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1260 Agriculture and Consumer Services to work
1261 cooperatively with the Department of Revenue to
1262 implement an automated method of disclosing
1263 information related to licensees; authorizing the
1264 Department of Agriculture and Consumer Services to
1265 suspend or deny the license of any licensee found not
1266 to be in compliance with a support order, subpoena,
1267 order to show cause, or written agreement; providing
1268 for reinstatement of a denied or suspended license;
1269 relieving the department of certain liability
1270 associated with the denial or suspension of a license;
1271 amending s. 472.011, F.S.; authorizing the department
1272 to waive license renewal fees for land surveyors and
1273 mappers under certain circumstances; authorizing the
1274 collection of an existing special assessment from
1275 inactive and delinquent licensees; amending s.
1276 472.0131, F.S., relating to examinations; making
1277 technical changes; amending s. 472.015, F.S.;
1278 authorizing the department to require land surveyors
1279 or mappers to submit their social security numbers
1280 when applying for initial licensure or license
1281 renewal; providing conditions under which an
1282 application is deemed received; providing conditions
1283 under which the department may issue a license by
1284 endorsement; requiring an applicant to provide his or
1285 her social security number as required pursuant to
1286 federal law; specifying how a social security number
1287 may be used; amending s. 472.018, F.S., relating to
1288 continuing education; making technical changes;



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1289 requiring that continuing education providers
1290 electronically provide certain information to the
1291 department; providing timeframes for reporting;
1292 requiring that the department establish a system to
1293 monitor licensee compliance with continuing education
1294 requirements; defining the term "monitor"; authorizing
1295 the department to refuse to renew a license until the
1296 applicant satisfies continuing education requirements;
1297 authorizing the department or board to impose
1298 additional penalties against applicants who fail to
1299 satisfy additional requirements; amending s. 472.0202,
1300 F.S.; conforming a cross-reference; amending s.
1301 472.0203, F.S.; providing for license renewal
1302 notification by the department to be sent
1303 electronically to the licensee's last known e-mail
1304 address; amending s. 472.025, F.S.; providing that a
1305 professional surveyor or mapper whose license is
1306 revoked or suspended must return his or her seal to
1307 the executive director of the board, rather than to
1308 the secretary; creating s. 472.0337, F.S.; authorizing
1309 the department to administer oaths, take depositions,
1310 make inspections, issue and serve subpoenas and other
1311 process, and compel the attendance of witnesses and
1312 production of certain documents; providing for
1313 challenges to and enforcement of subpoenas and orders;
1314 amending s. 472.0351, F.S.; revising grounds for
1315 discipline; eliminating certain actions by a licensee
1316 which are grounds for disciplinary action; specifying
1317 what constitutes an action against a license in



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1318 another state, territory, or country; specifying that
1319 the board may enter an order against a surveyor or
1320 mapper who committed certain violations before
1321 obtaining a license; authorizing the board to require
1322 corrective action; prohibiting the department from
1323 issuing to or renewing the license of a person or
1324 business entity that has been assessed a fine,
1325 interest, costs, or attorney fees associated with an
1326 investigation or prosecution until the person pays
1327 them in full or complies with or satisfies all terms
1328 and conditions of the final order; creating s.
1329 472.0357, F.S.; providing penalties for knowingly
1330 giving false information in the course of applying for
1331 or obtaining a license; amending s. 493.6105, F.S.;
1332 authorizing the Department of Agriculture and Consumer
1333 Services to waive firearms training requirements for
1334 the initial licensure of private investigative,
1335 private security, or repossession services under
1336 certain circumstances; amending s. 493.6113, F.S.;
1337 authorizing the department to waive firearms training
1338 requirements for license renewal of private
1339 investigative, private security, and repossession
1340 services under certain circumstances; amending s.
1341 493.6118, F.S.; providing for disciplinary action to
1342 be taken against certain additional license classes
1343 and schools or training facilities for private
1344 investigators and private security and repossession
1345 services; amending s. 493.6120, F.S.; providing for
1346 penalty provisions to apply to certain additional



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1347 license classes and schools or training facilities for
1348 private investigators and private security and
1349 repossession services; amending s. 501.015, F.S.,
1350 relating to the regulation of health studios;
1351 substituting the term "local business tax receipt" for
1352 the term "local occupational license"; amending s.
1353 501.017, F.S.; making technical changes; clarifying
1354 that certain notice be provided in a health studio
1355 contract in at least 10-point boldface type; amending
1356 s. 501.059, F.S.; deleting requirement that telephone
1357 subscribers pay an initial listing charge for
1358 including their telephone numbers on the state's no
1359 sales solicitation calls listing; specifying the
1360 period that a subscriber's listing remains active;
1361 requiring the department to include certain listings
1362 from a national database on the state's listing;
1363 authorizing the department to impose administrative
1364 fines for violations; specifying that administrative
1365 proceedings are subject to the Administrative
1366 Procedure Act; requiring telecommunications companies
1367 to inform their customers of certain telephone
1368 solicitation requirements; deleting the requirement
1369 that the Florida Public Service Commission adopt
1370 certain rules; amending s. 501.605, F.S.; providing
1371 that an applicant for a commercial telephone seller
1372 license may provide other valid forms of
1373 identification in lieu of a valid driver license
1374 number; removing the requirement that the applicant
1375 provide his or her social security number on the



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1376 application; amending s. 501.607, F.S.; providing that
1377 an applicant for a telemarketing salesperson's license
1378 may provide other valid forms of identification in
1379 lieu of a driver license number; amending s. 501.911,
1380 F.S.; revising provisions for administration of the
1381 Antifreeze Act of 1978, to conform; amending s.
1382 501.913, F.S.; requiring the registrant of a brand of
1383 antifreeze to assume full responsibility for the
1384 registration; requiring that a registrant of a brand
1385 of antifreeze not in production for distribution in
1386 this state must submit a notarized affidavit attesting
1387 to specified information; requiring that a certain
1388 sample size of each brand of antifreeze accompany the
1389 application for registration; amending s. 507.04,
1390 F.S.; requiring that the Department of Agriculture and
1391 Consumer Services be notified at least 10 days before
1392 any changes are made in the insurance coverage of a
1393 household moving service; amending s. 525.07, F.S.;
1394 revising required contents of seal clasps applied by
1395 meter mechanics after repair and adjustment of
1396 petroleum fuel measuring devices; amending s. 526.143,
1397 F.S.; authorizing the department to temporarily waive
1398 certain requirements for generators at retail motor
1399 fuel outlets which are used in preparation or response
1400 to an emergency or major disaster in another state;
1401 amending s. 526.50, F.S., relating to the sale of
1402 brake fluid; defining the terms "brand" and "formula";
1403 amending s. 526.51, F.S.; conforming terminology;
1404 providing criteria for reregistering a previously



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1405 registered brand and formula combination of brake
1406 fluid; providing for a fine for late submission of the
1407 application for reregistration and required materials;
1408 requiring a registrant to submit a notarized affidavit
1409 attesting that specified conditions have been
1410 satisfied if a registered brand and formula
1411 combination is not in production for distribution in
1412 this state; amending s. 526.52, F.S.; providing
1413 alternative criteria under which a brand of brake
1414 fluid may satisfy branding requirements; amending s.
1415 526.53, F.S.; conforming terminology; requiring that
1416 stop-sale orders be served by the department on the
1417 owner of the brand name, the distributor, or other
1418 entity responsible for selling or distributing the
1419 product; providing that the department's
1420 representative, with the consent of the department,
1421 may dispose of certain unregistered brake fluid;
1422 amending s. 526.55, F.S.; replacing criminal sanctions
1423 with administrative and monetary sanctions for
1424 violations of laws regulating the sale of brake fluid;
1425 amending s. 539.001, F.S.; eliminating the requirement
1426 that a pawnshop provide the Department of Agriculture
1427 and Consumer Services notice of a change in its
1428 location by certified or registered mail; amending s.
1429 559.805, F.S.; eliminating a requirement that sellers
1430 of business opportunities provide the department with
1431 the social security numbers of their independent
1432 agents; amending s. 559.904, F.S., relating to the
1433 regulation of motor vehicle repair shops; substituting



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1434 the term "business tax receipt" for the term
1435 "occupational license"; repealing s. 559.922, F.S.,
1436 relating to the use of motor vehicle repair shop
1437 registration fees to provide financial assistance to
1438 motor vehicle repair shop employees who undertake
1439 certain technical training or courses; amending s.
1440 559.928, F.S., relating to the regulation of sellers
1441 of travel; substituting the term "business tax
1442 receipt" for the term "occupational license";
1443 eliminating a requirement that an independent travel
1444 agent provide his or her social security number to the
1445 department; amending s. 559.9285, F.S.; conforming a
1446 cross-reference; amending s. 559.935, F.S., relating
1447 to an exemption from regulation provided for certain
1448 sellers of travel; substituting the term "business tax
1449 receipt" for the term "occupational license"; amending
1450 s. 570.29, F.S., relating to departmental divisions;
1451 conforming terminology; repealing ss. 570.46 and
1452 570.47, F.S., relating to the powers and duties of the
1453 Division of Standards and the qualifications and
1454 duties of the director of the division; amending s.
1455 570.544, F.S.; revising the powers and duties of the
1456 director of the Division of Consumer Services;
1457 amending s. 616.242, F.S.; removing an obsolete
1458 reference to the Bureau of Fair Rides Inspection;
1459 providing an effective date.