

By the Committee on Commerce and Tourism; and Senator Flores

577-02068-12

2012888c1

1 A bill to be entitled
2 An act relating to consumer services; amending s.
3 20.14, F.S.; deleting provisions establishing the
4 Division of Standards within the Department of
5 Agriculture and Consumer Services; repealing s.
6 366.85, F.S., relating to responsibilities of the
7 department for compliance with certain federal
8 requirements related to consumer conciliatory
9 conferences and energy conservation products,
10 services, and loans; amending s. 472.005, F.S.;
11 redefining the term "license" and defining the terms
12 "consumer member" and "licensee" for purposes of
13 provisions governing surveyors and mappers; amending
14 s. 472.006, F.S.; directing the Department of
15 Agriculture and Consumer Services to work
16 cooperatively with the Department of Revenue to
17 implement an automated method of disclosing
18 information related to licensees; authorizing the
19 Department of Agriculture and Consumer Services to
20 suspend or deny the license of any licensee found not
21 to be in compliance with a support order, subpoena,
22 order to show cause, or written agreement; providing
23 for reinstatement of a denied or suspended license;
24 relieving the department of certain liability
25 associated with the denial or suspension of a license;
26 amending s. 472.011, F.S.; authorizing the department
27 to waive license renewal fees for land surveyors and
28 mappers under certain circumstances; authorizing the
29 collection of an existing special assessment from

577-02068-12

2012888c1

30 inactive and delinquent licensees; amending s.
31 472.0131, F.S., relating to examinations; making
32 technical changes; amending s. 472.015, F.S.;
33 authorizing the department to require land surveyors
34 or mappers to submit their social security numbers
35 when applying for initial licensure or license
36 renewal; providing conditions under which an
37 application is deemed received; providing conditions
38 under which the department may issue a license by
39 endorsement; requiring an applicant to provide his or
40 her social security number as required pursuant to
41 federal law; specifying how a social security number
42 may be used; amending s. 472.018, F.S., relating to
43 continuing education; making technical changes;
44 requiring that continuing education providers
45 electronically provide certain information to the
46 department; providing timeframes for reporting;
47 requiring that the department establish a system to
48 monitor licensee compliance with continuing education
49 requirements; defining the term "monitor"; authorizing
50 the department to refuse to renew a license until the
51 applicant satisfies continuing education requirements;
52 authorizing the department or board to impose
53 additional penalties against applicants who fail to
54 satisfy additional requirements; amending s. 472.0202,
55 F.S.; conforming a cross-reference; amending s.
56 472.0203, F.S.; providing for license renewal
57 notification by the department to be sent
58 electronically to the licensee's last known e-mail

577-02068-12

2012888c1

59 address; amending s. 472.025, F.S.; providing that a
60 professional surveyor or mapper whose license is
61 revoked or suspended must return his or her seal to
62 the executive director of the board, rather than to
63 the secretary; creating s. 472.0337, F.S.; authorizing
64 the department to administer oaths, take depositions,
65 make inspections, issue and serve subpoenas and other
66 process, and compel the attendance of witnesses and
67 production of certain documents; providing for
68 challenges to and enforcement of subpoenas and orders;
69 amending s. 472.0351, F.S.; revising grounds for
70 discipline; eliminating certain actions by a licensee
71 which are grounds for disciplinary action; specifying
72 what constitutes an action against a license in
73 another state, territory, or country; specifying that
74 the board may enter an order against a surveyor or
75 mapper who committed certain violations before
76 obtaining a license; authorizing the board to require
77 corrective action; prohibiting the department from
78 issuing to or renewing the license of a person or
79 business entity that has been assessed a fine,
80 interest, costs, or attorney fees associated with an
81 investigation or prosecution until the person pays
82 them in full or complies with or satisfies all terms
83 and conditions of the final order; creating s.
84 472.0357, F.S.; providing penalties for knowingly
85 giving false information in the course of applying for
86 or obtaining a license; amending s. 493.6105, F.S.;

87 authorizing the Department of Agriculture and Consumer

577-02068-12

2012888c1

88 Services to waive firearms training requirements for
89 the initial licensure of private investigative,
90 private security, or repossession services under
91 certain circumstances; amending s. 493.6113, F.S.;
92 authorizing the department to waive firearms training
93 requirements for license renewal of private
94 investigative, private security, and repossession
95 services under certain circumstances; amending s.
96 493.6118, F.S.; providing for disciplinary action to
97 be taken against certain additional license classes
98 and schools or training facilities for private
99 investigators and private security and repossession
100 services; amending s. 493.6120, F.S.; providing for
101 penalty provisions to apply to certain additional
102 license classes and schools or training facilities for
103 private investigators and private security and
104 repossession services; amending s. 501.015, F.S.,
105 relating to the regulation of health studios;
106 substituting the term "local business tax receipt" for
107 the term "local occupational license"; amending s.
108 501.017, F.S.; making technical changes; clarifying
109 that certain notice be provided in a health studio
110 contract in at least 10-point boldface type; amending
111 s. 501.059, F.S.; deleting requirement that telephone
112 subscribers pay an initial listing charge for
113 including their telephone numbers on the state's no
114 sales solicitation calls listing; specifying the
115 period that a subscriber's listing remains active;
116 requiring the department to include certain listings

577-02068-12

2012888c1

117 from a national database on the state's listing;
118 authorizing the department to impose administrative
119 fines for violations; specifying that administrative
120 proceedings are subject to the Administrative
121 Procedure Act; requiring telecommunications companies
122 to inform their customers of certain telephone
123 solicitation requirements; deleting the requirement
124 that the Florida Public Service Commission adopt
125 certain rules; amending s. 501.605, F.S.; providing
126 that an applicant for a commercial telephone seller
127 license may provide other valid forms of
128 identification in lieu of a valid driver license
129 number; removing the requirement that the applicant
130 provide his or her social security number on the
131 application; amending s. 501.607, F.S.; providing that
132 an applicant for a telemarketing salesperson's license
133 may provide other valid forms of identification in
134 lieu of a driver license number; amending s. 501.911,
135 F.S.; revising provisions for administration of the
136 Antifreeze Act of 1978, to conform; amending s.
137 501.913, F.S.; requiring the registrant of a brand of
138 antifreeze to assume full responsibility for the
139 registration; requiring that a registrant of a brand
140 of antifreeze not in production for distribution in
141 this state must submit a notarized affidavit attesting
142 to specified information; requiring that a certain
143 sample size of each brand of antifreeze accompany the
144 application for registration; amending s. 507.04,
145 F.S.; requiring that the Department of Agriculture and

577-02068-12

2012888c1

146 Consumer Services be notified at least 10 days before
147 any changes are made in the insurance coverage of a
148 household moving service; amending s. 525.07, F.S.;
149 revising required contents of seal clasps applied by
150 meter mechanics after repair and adjustment of
151 petroleum fuel measuring devices; amending s. 526.143,
152 F.S.; authorizing the department to temporarily waive
153 certain requirements for generators at retail motor
154 fuel outlets which are used in preparation or response
155 to an emergency or major disaster in another state;
156 amending s. 526.50, F.S., relating to the sale of
157 brake fluid; defining the terms "brand" and "formula";
158 amending s. 526.51, F.S.; conforming terminology;
159 providing criteria for reregistering a previously
160 registered brand and formula combination of brake
161 fluid; providing for a fine for late submission of the
162 application for reregistration and required materials;
163 requiring a registrant to submit a notarized affidavit
164 attesting that specified conditions have been
165 satisfied if a registered brand and formula
166 combination is not in production for distribution in
167 this state; amending s. 526.52, F.S.; providing
168 alternative criteria under which a brand of brake
169 fluid may satisfy branding requirements; amending s.
170 526.53, F.S.; conforming terminology; requiring that
171 stop-sale orders be served by the department on the
172 owner of the brand name, the distributor, or other
173 entity responsible for selling or distributing the
174 product; providing that the department's

577-02068-12

2012888c1

175 representative, with the consent of the department,
176 may dispose of certain unregistered brake fluid;
177 amending s. 526.55, F.S.; replacing criminal sanctions
178 with administrative and monetary sanctions for
179 violations of laws regulating the sale of brake fluid;
180 amending s. 539.001, F.S.; eliminating the requirement
181 that a pawnshop provide the Department of Agriculture
182 and Consumer Services notice of a change in its
183 location by certified or registered mail; amending s.
184 559.805, F.S.; eliminating a requirement that sellers
185 of business opportunities provide the department with
186 the social security numbers of their independent
187 agents; amending s. 559.904, F.S., relating to the
188 regulation of motor vehicle repair shops; substituting
189 the term "business tax receipt" for the term
190 "occupational license"; repealing s. 559.922, F.S.,
191 relating to the use of motor vehicle repair shop
192 registration fees to provide financial assistance to
193 motor vehicle repair shop employees who undertake
194 certain technical training or courses; amending s.
195 559.928, F.S., relating to the regulation of sellers
196 of travel; substituting the term "business tax
197 receipt" for the term "occupational license";
198 eliminating a requirement that an independent travel
199 agent provide his or her social security number to the
200 department; amending s. 559.9285, F.S.; conforming a
201 cross-reference; amending s. 559.935, F.S., relating
202 to an exemption from regulation provided for certain
203 sellers of travel; substituting the term "business tax

577-02068-12

2012888c1

204 receipt" for the term "occupational license"; amending
 205 s. 570.29, F.S., relating to departmental divisions;
 206 conforming terminology; repealing ss. 570.46 and
 207 570.47, F.S., relating to the powers and duties of the
 208 Division of Standards and the qualifications and
 209 duties of the director of the division; amending s.
 210 570.544, F.S.; revising the powers and duties of the
 211 director of the Division of Consumer Services;
 212 amending s. 616.242, F.S.; removing an obsolete
 213 reference to the Bureau of Fair Rides Inspection;
 214 providing an effective date.

215

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

217

218 Section 1. Paragraph (1) of subsection (2) of section
 219 20.14, Florida Statutes, is amended to read:

220 20.14 Department of Agriculture and Consumer Services.—
 221 There is created a Department of Agriculture and Consumer
 222 Services.

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

225 ~~(1) Standards.~~

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

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

230 472.005 Definitions.—As used in ss. 472.001-472.037:

231 (7) The term "license" means a registration, certificate,
 232 or license issued by the department pursuant to this chapter ~~the~~

577-02068-12

2012888c1

233 ~~registration of surveyors and mappers or the certification of~~
234 ~~businesses to practice surveying and mapping in this state.~~

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

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

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

244 472.006 Department; powers and duties.—The department
245 shall:

246 (12) Work cooperatively with the Department of Revenue to
247 implement an automated method for periodically disclosing
248 information relating to current licensees to the Department of
249 Revenue in order to further the public policy of reducing the
250 state's financial burden as a result of family desertion and
251 nonsupport of dependent children as provided in s. 409.2551. The
252 department shall, if directed by the court or the Department of
253 Revenue, pursuant to s. 409.2598, suspend or deny the license of
254 any licensee who is found to not be in compliance with a support
255 order, subpoena, order to show cause, or written agreement
256 entered into by the licensee with the Department of Revenue. The
257 department shall issue or reinstate the license without
258 additional charge to the licensee if notified by the court or
259 the Department of Revenue that the licensee has complied with
260 the terms of the support order. The department is not liable for
261 any license denial or suspension resulting from the discharge of

577-02068-12

2012888c1

262 its duties under this subsection.

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

265 472.011 Fees.—

266 (1) The board, by rule, may establish fees to be paid for
267 applications, examination, reexamination, licensing and renewal,
268 inactive status application and reactivation of inactive
269 licenses, recordmaking and recordkeeping, and applications for
270 providers of continuing education. The board may also establish
271 by rule a delinquency fee. The board shall establish fees that
272 are adequate to ensure the continued operation of the board.
273 Fees shall be based on department estimates of the revenue
274 required to implement ss. 472.001-472.037 and the provisions of
275 law with respect to the regulation of surveyors and mappers. If
276 the department determines, based on estimates of available
277 revenue collected pursuant to this section, that the General
278 Inspection Trust Fund contains funds that exceed the amount
279 required to cover the necessary functions of the board, the
280 department shall, by rule, waive the license renewal fees for
281 licensees under this chapter for a period not to exceed 2 years.

282 (12) The board may, by rule, assess and collect a special
283 assessment ~~one-time fee~~ from each active, inactive, and
284 delinquent ~~each voluntary inactive~~ licensee in an amount
285 necessary to eliminate a cash deficit or, if there is not a cash
286 deficit, in an amount sufficient to maintain the financial
287 integrity of this profession as required in this subsection.

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

290 472.0131 Examinations; development; administration.—

577-02068-12

2012888c1

291 (3) Except for national examinations approved and
292 administered pursuant to paragraph (1)(d), the department shall
293 provide procedures for applicants who have taken and failed an
294 examination developed by the department or a contracted vendor
295 to review their examination questions, answers, papers, grades,
296 and grading key for the questions the candidate answered
297 incorrectly on his or her last examination or, if not feasible,
298 the parts of the examination failed. Applicants shall bear the
299 actual cost for the department to provide examination review
300 pursuant to this subsection. An applicant may waive in writing
301 the confidentiality of his or her examination grades.

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

305 472.015 Licensure.—

306 (1) Notwithstanding any other law, the department is the
307 sole authority for determining the contents of any documents to
308 be submitted for initial licensure and licensure renewal. The
309 ~~Such~~ documents may contain information including, as
310 appropriate: demographics, social security number, education,
311 work history, personal background, criminal history, finances,
312 business information, complaints, inspections, investigations,
313 discipline, bonding, signature notarization, photographs,
314 performance periods, reciprocity, local government approvals,
315 supporting documentation, periodic reporting requirements,
316 continuing education requirements, and ongoing education
317 monitoring. The applicant shall supplement his or her
318 application ~~may be supplemented~~ as needed to reflect any
319 material change in any circumstance or condition stated in the

577-02068-12

2012888c1

320 application which takes place between the initial filing of the
321 application and the final grant or denial of the license and
322 which might affect the decision of the department. An
323 application is received for the purposes of s. 120.60 upon
324 receipt by the department of the application, submitted in the
325 format prescribed by the department, the application fee set by
326 the board, and any other documentation or fee required by law or
327 rule to be submitted with the application in order for the
328 application to be complete.

329 (6)

330 (b) The department may ~~shall~~ not issue a license by
331 endorsement to any applicant who is under investigation in this
332 state or any other state or any other jurisdiction ~~another state~~
333 for any act that would constitute a violation of this ss.
334 ~~472.001-472.037 or chapter 455 until such time as the~~
335 investigation is complete and disciplinary proceedings have been
336 terminated.

337 (15) Pursuant to the federal Personal Responsibility and
338 Work Opportunity Reconciliation Act of 1996, each person
339 applying for initial licensure or license renewal shall provide
340 his or her social security number. Use of social security
341 numbers obtained through this requirement is limited to the
342 purpose of administering the Title IV-D program for child
343 support enforcement, use by the department, and use as otherwise
344 provided by law.

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

348 472.018 Continuing education.—The department may not renew

577-02068-12

2012888c1

349 a license until the licensee submits proof satisfactory to the
350 board that during the 2 years before ~~prior to~~ her or his
351 application for renewal the licensee has completed at least 24
352 hours of continuing education.

353 (1) The board shall adopt rules to establish the criteria
354 and course content for continuing education courses. The rules
355 may provide that up to a maximum of 25 percent of the required
356 continuing education hours may ~~can~~ be fulfilled by the
357 performance of pro bono services to the indigent or to
358 underserved populations or in areas of critical need within the
359 state where the licensee practices. The board must require that
360 any pro bono services be approved in advance in order to receive
361 credit for continuing education under this section. The board
362 shall use the standard for determining indigency shall be that
363 recognized by the Federal Poverty Income Guidelines produced by
364 the United States Department of Health and Human Services in
365 determining indigency. The board may adopt rules that may
366 provide ~~for approval by the board~~ that a part of the continuing
367 education hours may ~~can~~ be fulfilled by performing research in
368 critical need areas or for training leading to advanced
369 professional certification. The board, ~~or the department when~~
370 ~~there is no board,~~ may adopt ~~make~~ rules to define underserved
371 and critical need areas. The department shall adopt rules for
372 the administration of continuing education requirements adopted
373 by the board ~~or the department when there is no board.~~

374 (13) Each continuing education provider shall provide to
375 the department, in an electronic format determined by the
376 department, information regarding the continuing education
377 status of licensees which the department determines is necessary

577-02068-12

2012888c1

378 to carry out its duties under this chapter. After a licensee
379 completes a course, the information must be submitted
380 electronically by the continuing education provider to the
381 department within 30 calendar days after completion. However,
382 beginning on the 30th day before the renewal deadline or before
383 the renewal date, whichever occurs sooner, the continuing
384 education provider shall electronically report such information
385 to the department within 10 business days after completion.

386 (14) The department shall establish a system to monitor
387 licensee compliance with continuing education requirements and
388 to determine the continuing education status of each licensee.
389 As used in this subsection, the term "monitor" means the act of
390 determining, for each licensee, whether the licensee is in full
391 compliance with applicable continuing education requirements as
392 of the date of the licensee's application for license renewal.

393 (15) The department may refuse to renew a license until the
394 licensee has satisfied all applicable continuing education
395 requirements. This subsection does not preclude the department
396 or board from imposing additional penalties pursuant to this
397 chapter or rules adopted pursuant this chapter.

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

400 472.0202 Inactive and delinquent status.—

401 (1) A licensee may practice a profession only if the
402 licensee has an active status license. A licensee who practices
403 a profession without an active status license is in violation of
404 this section and s. 472.0351 ~~472.033~~, and the board may impose
405 discipline on the licensee.

406 Section 10. Subsection (3) is added to section 472.0203,

577-02068-12

2012888c1

407 Florida Statutes, to read:

408 472.0203 Renewal and cancellation notices.—

409 (3) Notwithstanding any other law, a licensure renewal
410 notification required to be sent to the last known address of
411 record may be sent by the department to the licensee by
412 electronic means if the licensee has provided an e-mail address
413 to the department.

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

416 472.025 Seals.—

417 (2) It is unlawful for a ~~any~~ person to stamp, seal, or
418 digitally sign a ~~any~~ document with a seal or digital signature
419 after his or her certificate of registration has expired or been
420 revoked or suspended, unless such certificate of registration
421 has been reinstated or reissued. When a ~~the~~ certificate of
422 registration ~~of a registrant~~ has been revoked or suspended by
423 the board, the registrant shall, within ~~a period of~~ 30 days
424 after the revocation or suspension has become effective,
425 surrender his or her seal to the executive director ~~secretary~~ of
426 the board and confirm to the executive director ~~secretary~~ the
427 cancellation of the registrant's digital signature in accordance
428 with ss. 668.001-668.006. If ~~In the event~~ the registrant's
429 certificate has been suspended for a period of time, his or her
430 seal shall be returned to him or her upon expiration of the
431 suspension period.

432 Section 12. Section 472.0337, Florida Statutes, is created
433 to read:

434 472.0337 Power to administer oaths, take depositions, and
435 issue subpoenas.—For the purpose of an investigation or

577-02068-12

2012888c1

436 proceeding conducted by the department, the department shall
437 administer oaths, take depositions, make inspections, issue
438 subpoenas which must be supported by affidavit, serve subpoenas
439 and other process, and compel the attendance of witnesses and
440 the production of books, papers, documents, and other evidence.
441 Challenges to, and enforcement of, the subpoenas and orders
442 shall be conducted as provided in s. 120.569.

443 Section 13. Section 472.0351, Florida Statutes, is amended
444 to read:

445 472.0351 Grounds for discipline; penalties; enforcement.—

446 (1) The following acts ~~shall~~ constitute grounds for which
447 the disciplinary actions specified in subsection (2) may be
448 taken:

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

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

452 (c) Having a license to practice surveying and mapping
453 revoked, suspended, or otherwise acted against, including the
454 denial of licensure, by the licensing authority of another
455 state, territory, or country, for a violation that constitutes a
456 violation under the laws of this state. The acceptance of a
457 relinquishment of licensure, stipulation, consent order, or
458 other settlement offered in response to or in anticipation of
459 the filing of charges against the license by a licensing
460 authority is an action against the license;

461 (d) Being convicted or found guilty of, or entering a plea
462 of guilty, no contest, or nolo contendere to, regardless of
463 adjudication, a crime in any jurisdiction which directly relates
464 to the practice of surveying and mapping or the ability to

577-02068-12

2012888c1

465 practice surveying and mapping;

466 (e) Making or filing a report or record that the licensee
467 knows to be false, willfully failing to file a report or record
468 required by state or federal law, willfully impeding or
469 obstructing such filing, or inducing another person to impede or
470 obstruct such filing. Such reports or records ~~shall~~ include only
471 those that are signed in the capacity of a registered surveyor
472 and mapper;

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

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

478 (h) Failing to perform a ~~any~~ statutory or legal obligation
479 placed upon a licensed surveyor and mapper; violating a ~~any~~
480 provision of this chapter, a rule of the board or department, or
481 a lawful order of the board or department ~~previously entered in~~
482 ~~a disciplinary hearing~~; or failing to comply with a lawfully
483 issued subpoena of the department;

484 (i) Practicing on a revoked, suspended, inactive, or
485 delinquent license;

486 ~~(j) Making misleading, deceptive, or fraudulent~~
487 ~~representations in or related to the practice of the licensee's~~
488 ~~profession;~~

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

491 ~~(l) Having a license or the authority to practice the~~
492 ~~regulated profession revoked, suspended, or otherwise acted~~
493 ~~against, including the denial of licensure, by the licensing~~

577-02068-12

2012888c1

494 ~~authority of any jurisdiction, including its agencies or~~
495 ~~subdivisions, for a violation that would constitute a violation~~
496 ~~under Florida law;~~

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

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

503 (l)~~(o)~~ Aiding, assisting, procuring, employing, or advising
504 any unlicensed person or entity to practice surveying and
505 mapping contrary to this chapter or the rules of the department
506 or the board;

507 (m)~~(p)~~ Making deceptive, untrue, or fraudulent
508 representations in or related to the practice of professional
509 surveying or mapping ~~a profession~~ or employing a trick or scheme
510 in or related to the practice of professional surveying or
511 mapping ~~a profession~~;

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

514 (o)~~(r)~~ Practicing or offering to practice beyond the scope
515 permitted by law or accepting and performing professional
516 responsibilities the licensee knows, or has reason to know, the
517 licensee is not competent to perform;

518 (p)~~(s)~~ Delegating or contracting for the performance of
519 professional responsibilities by a person when the licensee
520 delegating or contracting for performance of such
521 responsibilities knows, or has reason to know, such person is
522 not qualified by training, experience, and authorization when

577-02068-12

2012888c1

523 required to perform them; or

524 ~~(t) Violating this chapter, the applicable professional~~
525 ~~practice act, a rule of the department or the board, or a lawful~~
526 ~~order of the department or the board, or failing to comply with~~
527 ~~a lawfully issued subpoena of the department; or~~

528 (q) ~~(u)~~ Improperly interfering with an investigation or
529 inspection authorized by statute, or with any disciplinary
530 proceeding.

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

536 (a) Denial of an application for licensure, or approval of
537 an application for licensure with restrictions.

538 (b) Revocation or suspension of a license.

539 (c) Imposition of an administrative fine not to exceed
540 \$1,000 for each count or separate offense.

541 (d) Issuance of a reprimand.

542 (e) Placement of the surveyor or mapper on probation for a
543 period of time and subject to such conditions as the board may
544 specify. Those conditions may include, but are not limited to,
545 requiring the licensee to undergo treatment, attend continuing
546 education courses, submit to be reexamined, work under the
547 supervision of another licensee, or satisfy any terms which are
548 reasonably tailored to the violations found.

549 (f) Restriction of the authorized scope of practice by the
550 surveyor or mapper.

551 (g) Corrective action.

577-02068-12

2012888c1

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

556 (4) (a) In addition to any other discipline imposed pursuant
557 to this section, the board may assess costs and attorney
558 ~~attorneys~~ fees related to the investigation and prosecution of
559 the case.

560 (b) In any case where the board or the department imposes a
561 fine or assessment and the fine or assessment is not paid within
562 a reasonable time, which may ~~such reasonable time~~ to be
563 prescribed in the rules of the board or in the order assessing
564 such fines or costs, the department or the Department of Legal
565 Affairs may contract for the collection of, or bring a civil
566 action to recover, the fine or assessment.

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

573 ~~(5) In addition to, or in lieu of, any other remedy or~~
574 ~~criminal prosecution, the department may file a proceeding in~~
575 ~~the name of the state seeking issuance of an injunction or a~~
576 ~~writ of mandamus against any person who violates any of the~~
577 ~~provisions of this chapter, or any provision of law with respect~~
578 ~~to professions regulated by the department, or any board~~
579 ~~therein, or the rules adopted pursuant thereto.~~

580 (5)~~(6)~~ If the board determines that revocation of a license

577-02068-12

2012888c1

581 is the appropriate penalty, the revocation shall be permanent.
582 However, the board may establish, by rule, requirements for
583 reapplication by applicants whose licenses have been permanently
584 revoked. Such requirements may include, but are ~~shall~~ not be
585 limited to, satisfying current requirements for an initial
586 license.

587 Section 14. Section 472.0357, Florida Statutes, is created
588 to read:

589 472.0357 Penalty for giving false information.—In addition
590 to, or in lieu of, any other disciplinary action imposed
591 pursuant to s. 472.0351, a person who knowingly gives false
592 information in the course of applying for or obtaining a license
593 from the department or the board, or who attempts to obtain or
594 obtains a license from the department or the board by knowingly
595 providing misleading statements or misrepresentations commits a
596 felony of the third degree, punishable as provided in s.
597 775.082, s. 775.083, or s. 775.084.

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

600 493.6105 Initial application for license.—

601 (5) In addition to the requirements outlined in subsection
602 (3), an applicant for a Class "G" license must satisfy minimum
603 training criteria for firearms established by rule of the
604 department, which training criteria includes, but is not limited
605 to, 28 hours of range and classroom training taught and
606 administered by a Class "K" licensee; however, no more than 8
607 hours of such training shall consist of range training. The
608 department may waive the foregoing firearms training requirement
609 if:

577-02068-12

2012888c1

610 (a) The applicant provides proof that he or she is
611 currently certified as a law enforcement officer or correctional
612 officer pursuant to the requirements of the Criminal Justice
613 Standards and Training Commission or has successfully completed
614 the training required for certification within the last 12
615 months.

616 (b) The applicant provides proof that he or she is
617 currently certified as a federal law enforcement officer and has
618 received law enforcement firearms training administered by a
619 federal law enforcement agency.

620 (c) The applicant submits a valid firearm certificate among
621 those specified in paragraph (6) (a). If the applicant submits
622 proof that he or she is an active law enforcement officer
623 currently certified under the Criminal Justice Standards and
624 Training Commission or has completed the training required for
625 that certification within the last 12 months, or if the
626 applicant submits one of the certificates specified in paragraph
627 (6) (a), the department may waive the foregoing firearms training
628 requirement.

629 Section 16. Paragraph (b) of subsection (3) of section
630 493.6113, Florida Statutes, is amended to read:

631 493.6113 Renewal application for licensure.—

632 (3) Each licensee is responsible for renewing his or her
633 license on or before its expiration by filing with the
634 department an application for renewal accompanied by payment of
635 the prescribed license fee.

636 (b) Each Class "G" licensee shall additionally submit proof
637 that he or she has received during each year of the license
638 period a minimum of 4 hours of firearms recertification training

577-02068-12

2012888c1

639 taught by a Class "K" licensee and has complied with such other
640 health and training requirements which the department may adopt
641 by rule. If proof of a minimum of 4 hours of annual firearms
642 recertification training cannot be provided, the renewal
643 applicant shall complete the minimum number of hours of range
644 and classroom training required at the time of initial
645 licensure. The department may waive the foregoing firearms
646 training requirement if:

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

652 2. The applicant provides proof that he or she is currently
653 certified as a federal law enforcement officer and has received
654 law enforcement firearms training administered by a federal law
655 enforcement agency annually during the previous 2 years of the
656 licensure period.

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

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

663 493.6118 Grounds for disciplinary action.—

664 (6) The agency or Class "DS" or "RS" license and the
665 approval or license of each officer, partner, or owner of the
666 agency, school, or training facility are automatically suspended
667 upon entry of a final order imposing an administrative fine

577-02068-12

2012888c1

668 against the agency, school, or training facility, until the fine
669 is paid, if 30 calendar days have elapsed since the entry of the
670 final order. All owners and corporate or agency officers or
671 partners are jointly and severally liable for ~~agency~~ fines
672 levied against the agency, school, or training facility. ~~Neither~~
673 The agency or Class "DS" or "RS" license or the approval or
674 license of any officer, partner, or owner of the agency, school,
675 or training facility may not be renewed, and ~~nor may~~ an
676 application may not be approved, if the owner, licensee, or
677 applicant is liable for an outstanding administrative fine
678 imposed under this chapter. An individual's approval or license
679 becomes automatically suspended if a fine imposed against the
680 individual or his or her agency is not paid within 30 days after
681 the date of the final order, and remains suspended until the
682 fine is paid. Notwithstanding the provisions of this subsection,
683 an individual's approval or license may not be suspended and ~~nor~~
684 ~~may~~ an application may not be denied if ~~when~~ the licensee or the
685 applicant has an appeal from a final order pending in any
686 appellate court.

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

689 493.6120 Violations; penalty.—

690 (4) A ~~Any~~ person who was an owner, officer, partner, or
691 manager of a licensed agency or a Class "DS" or "RS" school or
692 training facility at the time of any activity that is the basis
693 for revocation of the agency or branch office license or the
694 school or training facility license and who knew or should have
695 known of the activity, shall have his or her personal licenses
696 or approval suspended for 3 years and may not have any financial

577-02068-12

2012888c1

697 interest in or be employed in any capacity by a licensed agency
698 or a school or training facility during the period of
699 suspension.

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

702 501.015 Health studios; registration requirements and
703 fees.—Each health studio shall:

704 (7) A ~~Any~~ person applying for or renewing a local business
705 tax receipt ~~occupational license~~ to engage in business as a
706 health studio must exhibit an active registration certificate
707 from the Department of Agriculture and Consumer Services before
708 the local business tax receipt ~~occupational license~~ may be
709 issued or reissued.

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

712 501.017 Health studios; contracts.—

713 (1) Each ~~Every~~ contract for the sale of future health
714 studio services which is paid for in advance or which the buyer
715 agrees to pay for in future installment payments shall be in
716 writing and shall contain, contractual provisions to the
717 contrary notwithstanding, in immediate proximity to the space
718 reserved in the contract for the signature of the buyer, and in
719 at least 10-point boldfaced type, language substantially
720 equivalent to the following:

721 (a) A provision for the penalty-free cancellation of the
722 contract within 3 days, exclusive of holidays and weekends, of
723 its making, upon the mailing or delivery of written notice to
724 the health studio, and refund upon such notice of all moneys
725 paid under the contract, except that the health studio may

577-02068-12

2012888c1

726 retain an amount computed by dividing the number of complete
727 days in the contract term or, if appropriate, the number of
728 occasions health studio services are to be rendered into the
729 total contract price and multiplying the result by the number of
730 complete days that have passed since the making of the contract
731 or, if appropriate, by the number of occasions that health
732 studio services have been rendered. A refund shall be issued
733 within 30 days after receipt of the notice of cancellation made
734 within the 3-day provision.

735 (b)1. A provision for the cancellation and refund of the
736 contract if the contracting business location of the health
737 studio goes out of business, or moves its facilities more than 5
738 driving miles from the business location designated in the ~~such~~
739 contract and fails to provide, within 30 days, a facility of
740 equal quality located within 5 driving miles of the business
741 location designated in the ~~such~~ contract at no additional cost
742 to the buyer.

743 2. A provision that notice of intent to cancel by the buyer
744 shall be given in writing to the health studio. The ~~Such a~~
745 notice of cancellation from the consumer terminates ~~shall also~~
746 ~~terminate~~ automatically the consumer's obligation to any entity
747 to whom the health studio has subrogated or assigned the
748 consumer's contract. If the health studio wishes to enforce the
749 ~~such~~ contract after receipt of the notice ~~such showing~~, it may
750 request the department to determine the sufficiency of the
751 notice ~~showing~~.

752 3. A provision that if the department determines that a
753 refund is due the buyer, the refund shall be an amount computed
754 by dividing the contract price by the number of weeks in the

577-02068-12

2012888c1

755 contract term and multiplying the result by the number of weeks
756 remaining in the contract term. The business location of a
757 health studio may ~~shall~~ not be deemed out of business when
758 temporarily closed for repair and renovation of the premises:

759 a. Upon sale, for not more than 14 consecutive days; or
760 b. During ownership, for not more than 7 consecutive days
761 and not more than two periods of 7 consecutive days in any
762 calendar year.

763
764 A refund shall be issued within 30 days after receipt of the
765 notice of cancellation made pursuant to this paragraph.

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

769 (d) A provision for the cancellation of the contract if the
770 buyer dies or becomes physically unable to avail himself or
771 herself of a substantial portion of those services which he or
772 she used from the commencement of the contract until the time of
773 disability, with refund of funds paid or accepted in payment of
774 the contract in an amount computed by dividing the contract
775 price by the number of weeks in the contract term and
776 multiplying the result by the number of weeks remaining in the
777 contract term. The contract may require a buyer or the buyer's
778 estate seeking relief under this paragraph to provide proof of
779 disability or death. A physical disability sufficient to warrant
780 cancellation of the contract by the buyer is ~~shall be~~
781 established if the buyer furnishes to the health studio a
782 certification of such disability by a physician licensed under
783 chapter 458, chapter 459, chapter 460, or chapter 461 to the

577-02068-12

2012888c1

784 extent the diagnosis or treatment of the disability is within
785 the physician's scope of practice. A refund shall be issued
786 within 30 days after receipt of the notice of cancellation made
787 pursuant to this paragraph.

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

793 (f) A provision that if the health studio requires a buyer
794 to furnish identification upon entry to the facility and as a
795 condition of using the services of the health studio, the health
796 studio shall provide the buyer with the means of such
797 identification.

798 Section 21. Paragraphs (e) through (i) of subsection (1) of
799 section 501.059, Florida Statutes, are redesignated as
800 paragraphs (d) through (h), respectively, and present paragraph
801 (d) of subsection (1) and subsections (3), (8), and (10) of that
802 section are amended to read:

803 501.059 Telephone solicitation.—

804 (1) As used in this section:

805 ~~(d) "Commission" means the Florida Public Service~~
806 ~~Commission.~~

807 (3) (a) If any residential, mobile, or telephonic paging
808 device telephone subscriber notifies the department of his or
809 her desire ~~desiring~~ to be placed on a "no sales solicitation
810 calls" listing indicating that the subscriber does not wish to
811 receive unsolicited telephonic sales calls, ~~may notify~~ the
812 department shall place the subscriber ~~and be placed~~ on that

577-02068-12

2012888c1

813 listing for 5 years ~~upon receipt by the department of a \$10~~
814 ~~initial listing charge. This listing shall be renewed by the~~
815 ~~department annually for each consumer upon receipt of a renewal~~
816 ~~notice and a \$5 assessment.~~

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

821 (c) All fees imposed pursuant to this section shall be
822 deposited in the General Inspection Trust Fund for the
823 administration of this section.

824 (d) If the Federal Trade Commission, pursuant to 15 U.S.C.
825 s. 6102(a), establishes a national database that lists the
826 telephone numbers of subscribers who object to receiving
827 telephone solicitations, the department shall include those
828 listings from the national database which relate to Florida in
829 the listing established under this section.

830 (8) (a) The department shall investigate any complaints
831 received concerning violations of this section. If, after
832 investigating any complaint, the department finds that there has
833 been a violation of this section, the department or the
834 Department of Legal Affairs may bring an action to impose a
835 civil penalty and to seek other relief, including injunctive
836 relief, as the court deems appropriate against the telephone
837 solicitor. The civil penalty may ~~shall~~ not exceed \$10,000 per
838 violation and shall be deposited in the General Inspection Trust
839 Fund if the action or proceeding was brought by the department,
840 or the Legal Affairs Revolving Trust Fund if the action or
841 proceeding was brought by the Department of Legal Affairs. This

577-02068-12

2012888c1

842 civil penalty may be recovered in any action brought under this
843 part by the department, or the department may terminate any
844 investigation or action upon agreement by the person to pay a
845 stipulated civil penalty. The department or the court may waive
846 any civil penalty if the person has previously made full
847 restitution or reimbursement or has paid actual damages to the
848 consumers who have been injured by the violation.

849 (b) The department may, as an alternative to the civil
850 penalties provided in paragraph (a), impose an administrative
851 fine not to exceed \$1,000 for each act or omission that
852 constitutes a violation of this section. An administrative
853 proceeding that could result in the entry of an order imposing
854 an administrative penalty must be conducted in accordance with
855 chapter 120.

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

859 (a) Annual inserts in the billing statements mailed to
860 customers; and

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

863 Section 22. Paragraphs (a) and (l) of subsection (2) of
864 section 501.605, Florida Statutes, are amended to read:

865 501.605 Licensure of commercial telephone sellers.—

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

870 (a) The true name, date of birth, driver ~~driver's~~ license

577-02068-12

2012888c1

871 number or other valid form of identification, ~~social security~~
872 ~~number~~, and home address of the applicant, including each name
873 under which he or she intends to do business.

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

877 1. Principal officer, director, trustee, shareholder,
878 owner, or partner of the applicant, and of each other person
879 responsible for the management of the business of the applicant.

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

882 3. Salesperson or other person to be employed by the
883 applicant.

884

885 The application shall be accompanied by a copy of any: Script,
886 outline, or presentation the applicant will require or suggest a
887 salesperson to use when soliciting, or, if no such document is
888 used, a statement to that effect; sales information or
889 literature to be provided by the applicant to a salesperson; and
890 sales information or literature to be provided by the applicant
891 to a purchaser in connection with any solicitation.

892 Section 23. Paragraph (a) of subsection (1) of section
893 501.607, Florida Statutes, is amended to read:

894 501.607 Licensure of salespersons.—

895 (1) An applicant for a license as a salesperson must submit
896 to the department, in such form as it prescribes, a written
897 application for a license. The application must set forth the
898 following information:

899 (a) The true name, date of birth, driver ~~driver's~~ license

577-02068-12

2012888c1

900 number or other valid form of identification, ~~social security~~
 901 ~~number~~, and home address of the applicant.

902 Section 24. Section 501.911, Florida Statutes, is amended
 903 to read:

904 501.911 Administration of act.—Sections 501.91-501.923
 905 shall be administered by ~~the Division of Standards of the~~
 906 Department of Agriculture and Consumer Services.

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

909 501.913 Registration.—

910 (1) Each brand of antifreeze to be distributed in this
 911 state shall be registered with the department before ~~prior to~~
 912 distribution. The person whose name appears on the label, the
 913 manufacturer, or the packager shall make application to the
 914 department on forms provided by the department no later than
 915 July 1 of each year. The registrant assumes, by application to
 916 register the brand, full responsibility for the registration,
 917 quality, and quantity of the product sold, offered, or exposed
 918 for sale in this state. If a registered brand is not in
 919 production for distribution in this state and to ensure any
 920 remaining product that is still available for sale in the state
 921 is properly registered, the registrant must submit a notarized
 922 affidavit on company letterhead to the department certifying
 923 that:

- 924 (a) The stated brand is no longer in production;
- 925 (b) The stated brand will not be distributed in this state;
- 926 and
- 927 (c) All existing product of the stated brand will be
- 928 removed by the registrant from the state within 30 days after

577-02068-12

2012888c1

929 expiration of the registration or the registrant will reregister
930 the brand for two subsequent registration periods.

931

932 If production resumes, the brand must be reregistered before it
933 is distributed in this state.

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

935 (a) Specimens or facsimiles of the label for each brand of
936 antifreeze;

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

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

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

942 507.04 Required insurance coverages; liability limitations;
943 valuation coverage.—

944 (3) INSURANCE COVERAGES.—The insurance coverages required
945 under paragraph (1)(a) and subsection (2) must be issued by an
946 insurance company or carrier licensed to transact business in
947 this state under the Florida Insurance Code as designated in s.
948 624.01. The department shall require a mover to present a
949 certificate of insurance of the required coverages before
950 issuance or renewal of a registration certificate under s.
951 507.03. The department shall be named as a certificateholder in
952 the certificate and must be notified at least 10 ~~30~~ days before
953 cancellation of ~~any changes in~~ insurance coverage.

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

956 525.07 Powers and duties of department; inspections;
957 unlawful acts.—

577-02068-12

2012888c1

958 (7) It is unlawful for any person to break, cut, or remove
959 any seal applied by the department to a petroleum fuel measuring
960 device or container. If ~~When~~ it becomes necessary to repair and
961 adjust a petroleum fuel measuring device during the absence of
962 an inspector of the department, the seal on the meter adjustment
963 may be broken by a person who is registered with the department
964 as a meter mechanic. After repairs and adjustments have been
965 made, the adjusting mechanism must immediately be resealed by
966 the registered meter mechanic with a seal clasp bearing at least
967 ~~the name of the company or~~ the name or initials of the
968 registered mechanic. The registered mechanic shall immediately
969 notify the department of this action.

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

972 526.143 Alternate generated power capacity for motor fuel
973 dispensing facilities.—

974 (5) (a) Each corporation or other entity that owns 10 or
975 more motor fuel retail outlets located within a single county
976 shall maintain at least one portable generator that is capable
977 of providing an alternate generated power source as required
978 under subsection (2) for every 10 outlets. If an entity owns
979 more than 10 outlets or a multiple of 10 outlets plus an
980 additional 6 outlets, the entity must provide one additional
981 generator to accommodate such additional outlets. Each portable
982 generator must be stored within this state, or may be stored in
983 another state if located within 250 miles of this state, and
984 must be available for use in an affected location within 24
985 hours after a disaster.

986 (b) Each corporation or other entity that owns 10 or more

577-02068-12

2012888c1

987 motor fuel retail outlets located within a single domestic
988 security region, as determined pursuant to s. 943.0312(1), and
989 that does not own additional outlets located outside the
990 domestic security region shall maintain a written document of
991 agreement with one or more similarly equipped entities for the
992 use of portable generators that may be used to meet the
993 requirements of paragraph (a) and that are located within this
994 state but outside the affected domestic security region. The
995 agreement may be reciprocal, may allow for payment for services
996 rendered by the providing entity, and must guarantee the
997 availability of the portable generators to an affected location
998 within 24 hours after a disaster.

999 (c) Upon written request, the department may temporarily
1000 waive the requirements in paragraphs (a) and (b) if the
1001 generators are used in preparation for or response to an
1002 emergency or major disaster in another state. The waiver shall
1003 be in writing and include a beginning and ending date. The
1004 waiver may provide additional conditions as deemed necessary by
1005 the department. The waiver may be modified or terminated by the
1006 department if the Governor declares an emergency.

1007 (d) ~~(e)~~ For purposes of this section, ownership of a motor
1008 fuel retail outlet is ~~shall be~~ the owner of record of the fuel
1009 storage systems operating at the location, as identified in the
1010 Department of Environmental Protection underground storage
1011 facilities registry pursuant to s. 376.303(1).

1012 Section 29. Subsections (8) and (9) are added to section
1013 526.50, Florida Statutes, to read:

1014 526.50 Definition of terms.—As used in this part:

1015 (8) "Brand" means the product name appearing on the label

577-02068-12

2012888c1

1016 of a container of brake fluid.

1017 (9) "Formula" means the name of the chemical mixture or
1018 composition of the brake fluid product.

1019 Section 30. Subsections (1) and (3) of section 526.51,
1020 Florida Statutes, are amended to read:

1021 526.51 Registration; renewal and fees; departmental
1022 expenses; cancellation or refusal to issue or renew.—

1023 (1) (a) Application for registration of each brand of brake
1024 fluid shall be made on forms ~~to be~~ supplied by the department.
1025 The applicant shall give his or her name and address and the
1026 brand name of the brake fluid, state that he or she owns the
1027 brand name and has complete control over the product sold
1028 thereunder in this state Florida, and provide the name and
1029 address of the resident agent in this state Florida. If the
1030 applicant does not own the brand name but wishes to register the
1031 product with the department, a notarized affidavit that gives
1032 the applicant full authorization to register the brand name and
1033 that is signed by the owner of the brand name must accompany the
1034 application for registration. The affidavit must include all
1035 affected brand names, the owner's company or corporate name and
1036 address, the applicant's company or corporate name and address,
1037 and a statement from the owner authorizing the applicant to
1038 register the product with the department. The owner of the brand
1039 name shall maintain complete control over each product sold
1040 under that brand name in this state. All first-time new-product
1041 applications for a brand and formula combination must be
1042 accompanied by a certified report from an independent testing
1043 laboratory, setting forth the analysis of the brake fluid which
1044 shows ~~shall show~~ its quality to be not less than the

577-02068-12

2012888c1

1045 specifications established by the department for brake fluids. A
1046 sample of not less than 24 fluid ounces of brake fluid shall be
1047 submitted, in a container or containers, with labels
1048 representing exactly how the containers of brake fluid will be
1049 labeled when sold, and the sample and container shall be
1050 analyzed and inspected by the department ~~Division of Standards~~
1051 in order that compliance with the department's specifications
1052 and labeling requirements may be verified. Upon approval of the
1053 application, the department shall register the brand name of the
1054 brake fluid and issue to the applicant a permit authorizing the
1055 registrant to sell the brake fluid in this state during the
1056 permit year specified in the permit.

1057 (b) Each applicant shall pay a fee of \$100 with each
1058 application. A permit may be renewed by application to the
1059 department, accompanied by a renewal fee of \$50 on or before the
1060 last day of the permit year immediately preceding the permit
1061 year for which application is made for renewal of registration.
1062 To reregister a previously registered brand and formula
1063 combination, an applicant must submit a completed application
1064 and all materials as required in this section to the department
1065 before the first day of the permit year. A brand and formula
1066 combination for which a completed application and all materials
1067 required in this section are not received before the first day
1068 of the permit year may not be registered with the department
1069 until a completed application and all materials required in this
1070 section have been received and approved. If the brand and
1071 formula combination was previously registered with the
1072 department and a fee, application, or materials required in this
1073 section are received after the first day of the permit year, ~~To~~

577-02068-12

2012888c1

1074 ~~any fee not paid when due, there shall accrue~~ a penalty of \$25
1075 accrues, which shall be added to the ~~renewal~~ fee. Renewals shall
1076 ~~will~~ be accepted only on brake fluids that have no change in
1077 formula, composition, or brand name. Any change in formula,
1078 composition, or brand name of any brake fluid constitutes a new
1079 product that must be registered in accordance with this part.

1080 (c) In order to ensure that any remaining product still
1081 available for sale in this state is properly registered, if a
1082 registered brand and formula combination is no longer in
1083 production for distribution in this state, the registrant must
1084 submit a notarized affidavit on company letterhead to the
1085 department certifying that:

1086 1. The stated brand and formula combination is no longer in
1087 production;

1088 2. The stated brand and formula combination will not be
1089 distributed in this state; and

1090 3. All existing product of the stated brand and formula
1091 combination will be removed by the registrant from the state
1092 within 30 days after the expiration of the registration or that
1093 the registrant will reregister the brand and formula combination
1094 for two subsequent registration periods.

1095
1096 If production resumes, the brand and formula combination must be
1097 reregistered before it is again distributed in this state.

1098 (3) The department may cancel ~~or~~^{or} refuse to issue ~~or refuse~~
1099 ~~to renew~~ any registration and permit after due notice and
1100 opportunity to be heard if it finds that the brake fluid is
1101 adulterated or misbranded or that the registrant has failed to
1102 comply with the provisions of this part or the rules adopted

577-02068-12

2012888c1

1103 pursuant to this section and ~~regulations promulgated thereunder.~~

1104 Section 31. Paragraph (a) of subsection (3) of section
1105 526.52, Florida Statutes, is amended to read:

1106 526.52 Specifications; adulteration and misbranding.—

1107 (3) Brake fluid is deemed to be misbranded:

1108 (a) If its container does not bear on its side or top a
1109 label on which is printed the name and place of business of the
1110 registrant of the product, the words "brake fluid," and a
1111 statement that the product therein equals or exceeds the minimum
1112 specification of the Society of Automotive Engineers for brake
1113 fluid, heavy-duty-type, the United States Department of
1114 Transportation Motor Vehicle Safety Standard No. 116, or other
1115 specified standard identified in department rule. ~~By regulation~~
1116 The department may require by rule that the duty-type
1117 classification appear on the label.

1118 Section 32. Subsections (1) and (2) of section 526.53,
1119 Florida Statutes, are amended to read:

1120 526.53 Enforcement; inspection and analysis, stop-sale and
1121 disposition, regulations.—

1122 (1) The department shall enforce the provisions of this
1123 part through the department ~~Division of Standards~~, and may
1124 sample, inspect, analyze, and test any brake fluid manufactured,
1125 packed, or sold within this state. The department shall have
1126 free access during business hours to all premises, buildings,
1127 vehicles, cars, or vessels used in the manufacture, packing,
1128 storage, sale, or transportation of brake fluid, and may open
1129 any box, carton, parcel, or container of brake fluid and take
1130 samples for inspection and analysis or for evidence.

1131 (2) (a) If ~~When~~ any brake fluid is sold in violation of any

577-02068-12

2012888c1

1132 of the provisions of this part, all such brake fluid of the same
1133 brand name ~~on the same premises on which the violation occurred~~
1134 shall be placed under a stop-sale order by the department by
1135 servicing the owner of the brand name, the distributor, or other
1136 entity responsible for selling or distributing the product in
1137 this state with the stop-sale order. The department shall
1138 withdraw its stop-sale order upon the removal of the violation
1139 or upon voluntary destruction of the product, or other disposal
1140 approved by the department, under the supervision of the
1141 department.

1142 (b) In addition to being subject to the stop-sale
1143 procedures ~~above~~, unregistered brake fluid shall be held by the
1144 department or its representative, at a place to be designated in
1145 the stop-sale order, until properly registered and released in
1146 writing by the department or its representative. If application
1147 has not been made for registration of such product within 30
1148 days after issue of the stop-sale order, the department or, with
1149 the consent of the department, the representative may give the
1150 product that meets legal specifications ~~such product shall be~~
1151 ~~disposed of by the department~~ to any tax-supported institution
1152 or agency of the state. If application has not been made for
1153 registration of the product within 30 days after issuance of the
1154 stop-order sale and the product fails to meet legal
1155 specifications, the product may be disposed of as if the brake
1156 ~~fluid meets legal specifications or by other disposal~~ authorized
1157 by rule of the department ~~if it fails to meet legal~~
1158 ~~specifications~~.

1159 Section 33. Section 526.55, Florida Statutes, is amended to
1160 read:

577-02068-12

2012888c1

1161 526.55 Violation and penalties.—

1162 (1) It is unlawful:

1163 (a)~~(1)~~ To sell any brake fluid that is adulterated or
1164 misbranded, not registered or on which a permit has not been
1165 issued.

1166 (b)~~(2)~~ For anyone to remove any stop-sale order placed on a
1167 product by the department, or any product upon which a stop-sale
1168 order has been placed.

1169 (2) If the department finds that a person has violated or
1170 is operating in violation of ss. 526.50-526.56 or the rules or
1171 orders adopted thereunder, the department may, by order:

1172 (a) Issue a notice of noncompliance pursuant to s. 120.695;

1173 (b) Impose an administrative fine not to exceed \$5,000 for
1174 each violation;

1175 (c) Direct that the person cease and desist specified
1176 activities;

1177 (d) Revoke or suspend a registration, or refuse to register
1178 a product; or

1179 (e) Place the registrant on probation for a period of time,
1180 subject to conditions as the department may specify.

1181 (3) The administrative proceedings seeking entry of an
1182 order imposing any of the penalties specified in subsection (2)
1183 are governed by chapter 120.

1184 (4) If a registrant is found to be in violation of ss.
1185 526.50-526.56 and fails to pay a fine within 30 days after
1186 imposition of the fine, the department may suspend all
1187 registrations issued to the registrant by the department until
1188 the fine is paid.

1189 (5) All fines collected by the department under this

577-02068-12

2012888c1

1190 section shall be deposited into the General Inspection Trust
1191 Fund.

1192 ~~(3) Any person who violates any of the provisions of this~~
1193 ~~part or any rule or regulation promulgated thereunder shall, for~~
1194 ~~the first offense, be guilty of a misdemeanor of the second~~
1195 ~~degree, punishable as provided in s. 775.082 or s. 775.083, and,~~
1196 ~~for a second or subsequent offense, shall be guilty of a~~
1197 ~~misdemeanor of the first degree, punishable as provided in s.~~
1198 ~~775.082 or s. 775.083.~~

1199 Section 34. Paragraph (b) of subsection (3) of section
1200 539.001, Florida Statutes, is amended to read:

1201 539.001 The Florida Pawnbroking Act.—

1202 (3) LICENSE REQUIRED.—

1203 (b) A licensee who seeks to move a pawnshop to another
1204 location must give written notice ~~30 days' prior written notice~~
1205 ~~to the agency at least 30 days before the move by certified or~~
1206 ~~registered mail, return receipt requested, and the agency must~~
1207 ~~then~~ amend the license to indicate the new location. The
1208 licensee must also give such written notice to the appropriate
1209 law enforcement official.

1210 Section 35. Subsection (1) of section 559.805, Florida
1211 Statutes, is amended to read:

1212 559.805 Filings with the department; disclosure of
1213 advertisement identification number.—

1214 (1) Every seller of a business opportunity shall annually
1215 file with the department a copy of the disclosure statement
1216 required by s. 559.803 before ~~prior to~~ placing an advertisement
1217 or making any other representation designed to offer to, sell
1218 to, or solicit an offer to buy a business opportunity from a

577-02068-12

2012888c1

1219 prospective purchaser in this state and shall update this filing
1220 by reporting any material change in the required information
1221 within 30 days after the material change occurs. An
1222 advertisement is not placed in the state merely because the
1223 publisher circulates, or there is circulated on his or her
1224 behalf in the state, any bona fide newspaper or other
1225 publication of general, regular, and paid circulation which has
1226 had more than two-thirds of its circulation during the past 12
1227 months outside the state or because a radio or television
1228 program originating outside the state is received in the state.
1229 If the seller is required by s. 559.807 to provide a bond or
1230 establish a trust account or guaranteed letter of credit, he or
1231 she shall contemporaneously file with the department a copy of
1232 the bond, a copy of the formal notification by the depository
1233 that the trust account is established, or a copy of the
1234 guaranteed letter of credit. Every seller of a business
1235 opportunity shall file with the department a list of independent
1236 agents who will engage in the offer or sale of business
1237 opportunities on behalf of the seller in this state. This list
1238 must be kept current and shall include the following
1239 information: name, home and business address, telephone number,
1240 present employer, ~~social security number~~, and birth date. A No
1241 person may not ~~shall be allowed to~~ offer or sell business
1242 opportunities unless the required information has been provided
1243 to the department.

1244 Section 36. Subsection (7) of section 559.904, Florida
1245 Statutes, is amended to read:

1246 559.904 Motor vehicle repair shop registration;
1247 application; exemption.-

577-02068-12

2012888c1

1248 (7) Any person applying for or renewing a local business
1249 tax receipt ~~occupational license on or after October 1, 1993,~~ to
1250 engage in business as a motor vehicle repair shop must exhibit
1251 an active registration certificate from the department before
1252 the local business tax receipt ~~occupational license~~ may be
1253 issued or renewed.

1254 Section 37. Section 559.922, Florida Statutes, is repealed.

1255 Section 38. Subsections (1), (3), and (4) of section
1256 559.928, Florida Statutes, are amended to read:

1257 559.928 Registration.—

1258 (1) Each seller of travel shall annually register with the
1259 department, providing: its legal business or trade name, mailing
1260 address, and business locations; the full names, addresses, and
1261 telephone numbers of its owners or corporate officers and
1262 directors and the Florida agent of the corporation; a statement
1263 whether it is a domestic or foreign corporation, its state and
1264 date of incorporation, its charter number, and, if a foreign
1265 corporation, the date it registered with this state ~~the State of~~
1266 ~~Florida~~, and business tax receipt ~~occupational license~~ where
1267 applicable; the date on which a seller of travel registered its
1268 fictitious name if the seller of travel is operating under a
1269 fictitious or trade name; the name of all other corporations,
1270 business entities, and trade names through which each owner of
1271 the seller of travel operated, was known, or did business as a
1272 seller of travel within the preceding 5 years; a list of all
1273 authorized independent agents, including the agent's trade name,
1274 full name, mailing address, business address, and telephone
1275 numbers; the business location and address of each branch office
1276 and full name and address of the manager or supervisor; the

577-02068-12

2012888c1

1277 certification required under s. 559.9285; and proof of purchase
1278 of adequate bond as required in this part. A certificate
1279 evidencing proof of registration shall be issued by the
1280 department and must be prominently displayed in the seller of
1281 travel's primary place of business.

1282 (3) Each independent agent shall annually file an affidavit
1283 with the department prior to engaging in business in this state.
1284 This affidavit must include the independent agent's full name,
1285 legal business or trade name, mailing address, business address,
1286 telephone number, ~~social security number~~, and the name ~~or names~~
1287 and address ~~addresses~~ of each seller of travel represented by
1288 the independent agent. A letter evidencing proof of filing must
1289 be issued by the department and must be prominently displayed in
1290 the independent agent's primary place of business. Each
1291 independent agent must also submit an annual registration fee of
1292 \$50. All moneys collected pursuant to the imposition of the fee
1293 shall be deposited by the Chief Financial Officer into the
1294 General Inspection Trust Fund of the Department of Agriculture
1295 and Consumer Services for the sole purpose of administrating
1296 this part. As used in this subsection, the term "independent
1297 agent" means a person who represents a seller of travel by
1298 soliciting persons on its behalf; who has a written contract
1299 with a seller of travel which is operating in compliance with
1300 this part and any rules adopted thereunder; who does not receive
1301 a fee, commission, or other valuable consideration directly from
1302 the purchaser for the seller of travel; who does not at any time
1303 have any unissued ticket stock or travel documents in his or her
1304 possession; and who does not have the ability to issue tickets,
1305 vacation certificates, or any other travel document. The term

577-02068-12

2012888c1

1306 "independent agent" does not include an affiliate of the seller
1307 of travel, as that term is used in s. 559.935(3), or the
1308 employees of the seller of travel or of such affiliates.

1309 (4) Any person applying for or renewing a local business
1310 tax receipt ~~occupational license~~ to engage in business as a
1311 seller of travel must exhibit a current registration certificate
1312 from the department before the local business tax receipt
1313 ~~occupational license~~ may be issued or reissued.

1314 Section 39. Paragraph (c) of subsection (3) of section
1315 559.9285, Florida Statutes, is amended to read:

1316 559.9285 Certification of business activities.—

1317 (3) The department shall specify by rule the form of each
1318 certification under this section which shall include the
1319 following information:

1320 (c) The legal name, any trade names or fictitious names,
1321 mailing address, physical address, telephone number or numbers,
1322 facsimile number or numbers, and all Internet and electronic
1323 contact information of every other commercial entity with which
1324 the certifying party engages in business or commerce that is
1325 related in any way to the certifying party's business or
1326 commerce with any terrorist state. The information disclosed
1327 pursuant to this paragraph does not constitute customer lists,
1328 customer names, or trade secrets protected under s. 570.544(8)
1329 ~~570.544(7)~~.

1330 Section 40. Subsection (6) of section 559.935, Florida
1331 Statutes, is amended to read:

1332 559.935 Exemptions.—

1333 (6) The department shall request from the Airlines
1334 Reporting Corporation any information necessary to implement the

577-02068-12

2012888c1

1335 provisions of subsection (2). Persons claiming an exemption
1336 under subsection (2) or subsection (3) must show a letter of
1337 exemption from the department before a local business tax
1338 receipt ~~occupational license~~ to engage in business as a seller
1339 of travel may be issued or reissued. If the department fails to
1340 issue a letter of exemption on a timely basis, the seller of
1341 travel shall submit to the department, through certified mail,
1342 an affidavit containing her or his name and address and an
1343 explanation of the exemption sought. Such affidavit may be used
1344 in lieu of a letter of exemption for the purpose of obtaining a
1345 business tax receipt ~~an occupational license~~. In any civil or
1346 criminal proceeding, the burden of proving an exemption under
1347 this section is ~~shall be~~ on the person claiming such exemption.
1348 A letter of exemption issued by the department may ~~shall~~ not be
1349 used in, and has ~~shall have~~ no bearing on, such proceedings.

1350 Section 41. Subsection (12) of section 570.29, Florida
1351 Statutes, is amended to read:

1352 570.29 Departmental divisions.—The department shall include
1353 the following divisions:

1354 ~~(12) Standards.~~

1355 Section 42. Sections 570.46 and 570.47, Florida Statutes,
1356 are repealed.

1357 Section 43. Section 570.544, Florida Statutes, is amended
1358 to read:

1359 570.544 Division of Consumer Services; director; powers;
1360 processing of complaints; records.—

1361 (1) The director of the Division of Consumer Services shall
1362 be appointed by and serve at the pleasure of the commissioner.

1363 (2) The director shall supervise, direct, and coordinate

577-02068-12

2012888c1

1364 the activities of the division and shall, under the direction of
1365 the department, enforce the provisions of chapters 472, 496,
1366 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849.

1367 (3)~~(2)~~ The Division of Consumer Services may:

1368 (a) Conduct studies and make analyses of matters affecting
1369 the interests of consumers.

1370 (b) Study the operation of laws for consumer protection.

1371 (c) Advise and make recommendations to the various state
1372 agencies concerned with matters affecting consumers.

1373 (d) Assist, advise, and cooperate with local, state, or
1374 federal agencies and officials in order to promote the interests
1375 of consumers.

1376 (e) Make use of the testing and laboratory facilities of
1377 the department for the detection of consumer fraud.

1378 (f) Report to the appropriate law enforcement officers any
1379 information concerning violation of consumer protection laws.

1380 (g) Assist, develop, and conduct programs of consumer
1381 education and consumer information through publications and
1382 other informational and educational material prepared for
1383 dissemination to the public, in order to increase the competence
1384 of consumers.

1385 (h) Organize and hold conferences on problems affecting
1386 consumers.

1387 (i) Recommend programs to encourage business and industry
1388 to maintain high standards of honesty, fair business practices,
1389 and public responsibility in the production, promotion, and sale
1390 of consumer goods and services.

1391 (4)~~(3)~~ In addition to the powers, duties, and
1392 responsibilities authorized by this or any other chapter, the

577-02068-12

2012888c1

1393 Division of Consumer Services shall serve as a clearinghouse for
1394 matters relating to consumer protection, consumer information,
1395 and consumer services generally. It shall receive complaints and
1396 grievances from consumers and promptly transmit them to the ~~that~~
1397 agency most directly concerned in order that the complaint or
1398 grievance may be expeditiously handled in the best interests of
1399 the complaining consumer. If no agency exists, the Division of
1400 Consumer Services shall seek a settlement of the complaint using
1401 formal or informal methods of mediation and conciliation and may
1402 seek any other resolution of the matter in accordance with its
1403 jurisdiction.

1404 (5)~~(4)~~ If any complaint received by the Division of
1405 Consumer Services concerns matters that ~~which~~ involve concurrent
1406 jurisdiction in more than one agency, duplicate copies of the
1407 complaint shall be referred to those offices deemed to have
1408 concurrent jurisdiction.

1409 (6)~~(5)~~(a) Any agency, office, bureau, division, or board of
1410 state government receiving a complaint that ~~which~~ deals with
1411 consumer fraud or consumer protection and that ~~which~~ is not
1412 within the jurisdiction of the receiving agency, office, bureau,
1413 division, or board originally receiving it, shall immediately
1414 refer the complaint to the Division of Consumer Services.

1415 (b) Upon receipt of such a complaint, the Division of
1416 Consumer Services shall make a determination of the proper
1417 jurisdiction to which the complaint relates and shall
1418 immediately refer the complaint to the agency, office, bureau,
1419 division, or board that ~~which~~ does have the proper regulatory or
1420 enforcement authority to deal with it.

1421 (7)~~(6)~~ The office or agency to which a complaint has been

577-02068-12

2012888c1

1422 referred shall within 30 days acknowledge receipt of the
1423 complaint. If an office or agency receiving a complaint
1424 determines that the matter presents a prima facie case for
1425 criminal prosecution or if the complaint cannot be settled at
1426 the administrative level, the complaint together with all
1427 supporting evidence shall be transmitted to the Department of
1428 Legal Affairs or other appropriate enforcement agency with a
1429 recommendation for civil or criminal action warranted by the
1430 evidence.

1431 (8)~~(7)~~ The records of the Division of Consumer Services are
1432 public records. However, customer lists, customer names, and
1433 trade secrets are confidential and exempt from the provisions of
1434 s. 119.07(1). Disclosure necessary to enforcement procedures
1435 does ~~shall not violate be construed as violative of~~ this
1436 prohibition.

1437 (9)~~(8)~~ ~~It shall be the duty of~~ The Division of Consumer
1438 Services shall ~~to~~ maintain records and compile summaries and
1439 analyses of consumer complaints and their eventual disposition,
1440 which data may serve as a basis for recommendations to the
1441 Legislature and to state regulatory agencies.

1442 Section 44. Paragraph (a) of subsection (8) of section
1443 616.242, Florida Statutes, is amended to read:

1444 616.242 Safety standards for amusement rides.—

1445 (8) FEES.—

1446 (a) The department shall by rule establish fees to cover
1447 the costs and expenditures associated with the fair rides
1448 inspection program ~~Bureau of Fair Rides Inspection~~, including
1449 all direct and indirect costs. If there is not sufficient
1450 general revenue appropriated by the Legislature, the industry

577-02068-12

2012888c1

1451 shall pay for the remaining cost of the program. The fees must
1452 be deposited in the General Inspection Trust Fund.

1453 Section 45. This act shall take effect July 1, 2012.