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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to the Department of Agriculture and Consumer Services; transferring, redesignating, and amending s. 525.09(1), F.S.; transferring the collection of the motor fuel inspection fee from the Department of Agriculture and Consumer Services to the Department of Revenue; amending s. 206.45, F.S.; providing for the collection and distribution of the inspection fee on motor fuel; amending s. 493.6101, F.S.; revising the definition of the term "repossession"; amending s. 493.6113, F.S.; requiring licensees to submit proof of recertification training to the Department of Agriculture and Consumer Services; providing that failure to submit proof of firearm recertification training will result in license suspension and nonrenewal; amending s. 493.6116, F.S.; removing a provision that prohibits firearm licensees from sponsoring certain interns; requiring interns to conduct regulated duties within the state; amending s. 493.6118, F.S.; providing additional grounds for disciplinary action against firearm licensees; providing criminal penalties for providing fraudulent training certifications; conforming a cross-reference; amending s. 493.6120, F.S.; providing an exception to a penalty provision; amending s. 493.6121, F.S.; conforming a cross-reference; amending s. 496.405, F.S.; revising



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28 procedures and requirements with respect to the
29 submission and processing of registration statements
30 and renewal statements by charitable organizations and
31 sponsors; amending s. 496.406, F.S.; providing
32 exemption from registration requirements for certain
33 charitable organizations and sponsors; requiring
34 exempt charitable organizations and sponsors that
35 solicit donations to provide information to the
36 department; providing that the burden of proving an
37 exemption is on the entity claiming the exemption;
38 limiting applicability of the registration exemption;
39 amending s. 496.407, F.S.; providing that a charitable
40 organization or sponsor may submit certain IRS forms
41 and schedules in lieu of a financial report; amending
42 s. 496.409, F.S.; revising procedures and requirements
43 with respect to the submission and processing of
44 registration statements and renewal statements by
45 professional fundraising consultants; amending s.
46 496.410, F.S.; revising procedures and requirements
47 with respect to the submission and processing of
48 registration statements, renewal statements, and
49 reports by professional solicitors; amending s.
50 496.411, F.S.; deleting provisions that require
51 registered charitable entities, sponsors, or
52 solicitors to display the percentage retained from
53 contributions; amending s. 496.415, F.S.; providing
54 that it is unlawful to knowingly provide a misleading
55 or inaccurate document relating to a solicitation or
56 charitable promotion; providing criminal penalties;



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57 amending s. 496.419, F.S.; providing that certain
58 violations constitute an immediate public threat and
59 are grounds for suspending solicitation activities;
60 requiring that the department report only
61 substantiated criminal violations to a prosecuting
62 authority; conforming cross-references; amending s.
63 501.016, F.S.; reducing the required security amount
64 for health studios; amending s. 501.059, F.S.;

65 prohibiting a person from making certain outbound
66 telephonic sales calls; amending s. 501.603, F.S.;

67 revising the definitions of the terms "commercial
68 telephone solicitation" and "commercial telephone
69 seller"; amending s. 501.604, F.S.; specifying that
70 exemptions apply to telecommunications businesses and
71 businesses that have operated lawfully; making
72 technical and conforming changes; amending s. 501.607,
73 F.S.; deleting the provision requiring commercial
74 telephone salespersons to provide employment history
75 to the department; amending s. 501.608, F.S.;

76 requiring that commercial telephone sellers provide
77 the department with certain documents to aid in
78 determining eligibility for exemptions; requiring each
79 commercial telephone seller operating under an
80 exemption to display or make certain documents
81 available for inspection; providing that failure to
82 obtain or display certain documents is grounds for
83 action against the commercial telephone seller;

84 amending s. 501.611, F.S.; requiring a commercial
85 telephone seller to maintain an active security bond



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86 throughout the period of licensure; amending s.
87 501.615, F.S.; revising the criteria for certain
88 exempt telephonic sales; requiring a commercial
89 telephone seller engaged in activities regulated by
90 ch. 721 to comply with certain disclosure obligations;
91 amending s. 501.617, F.S.; authorizing the department
92 to conduct regulatory inspections of commercial
93 telephone sellers; amending s. 507.03, F.S.; requiring
94 moving brokers to provide the department with contact
95 information for movers with whom they have contracted
96 for services or are affiliated; amending s. 507.04,
97 F.S.; eliminating the requirement that a moving broker
98 obtain a bond; amending s. 507.07, F.S.; prohibiting
99 movers and moving brokers from entering into certain
100 service contracts with certain unregistered persons;
101 amending s. 525.01, F.S.; revising the definition of
102 the term "alternative fuels" for purposes of
103 inspection requirements; repealing s. 525.09(2)-(4),
104 F.S., relating to the payment and applicability of an
105 inspection fee for testing and analyzing petroleum
106 fuels; amending s. 525.10, F.S.; eliminating the
107 requirement that collected fees be paid into the
108 treasury and distributed into a specified trust fund;
109 conforming provisions; amending s. 525.16, F.S.;
110 requiring entities that sell or distribute certain
111 fuels to meet fuel standards adopted by the
112 department; providing a release of liability for
113 certain entities who supply and blend fuels that meet
114 department standards; amending s. 526.141, F.S.;



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115 providing that certain entities are not liable for
116 damages resulting from the incompatible use of motor
117 fuels under certain circumstances; amending s. 527.01,
118 F.S.; providing a definition for the term "license
119 year" as it relates to the sale of petroleum gas;
120 amending s. 527.0201, F.S.; revising examination
121 requirements for applicants seeking certain licenses;
122 revising continuing education requirements for
123 specified qualifiers; amending s. 527.03, F.S.;
124 revising the renewal procedure for certain licenses;
125 amending s. 531.415, F.S.; conforming a cross-
126 reference; amending s. 531.61, F.S.; exempting certain
127 commercial weights and measures devices from permit
128 requirements; conforming a cross-reference; amending
129 chapter 2009-66, Laws of Florida; extending the
130 expiration date of certain statutes related to
131 commercial weights and measures; amending s. 539.001,
132 F.S.; revising fingerprinting requirements for a
133 pawnbroker license application; amending s. 559.802,
134 F.S.; requiring franchisors to provide notice of the
135 franchise sale on a department promulgated form;
136 amending s. 559.803, F.S.; deleting provisions
137 allowing and requiring sellers of business
138 opportunities to file federal disclosure statements
139 with the department; repealing s. 559.805, F.S.,
140 relating to mandatory filings and disclosure of
141 advertisement identification numbers by sellers of
142 business opportunities; repealing s. 559.807(2), F.S.,
143 relating to bonds or securities for business



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144 opportunity sellers; amending s. 559.813, F.S.;

145 deleting a provision authorizing the department to

146 impose specified penalties for certain violations

147 relating to selling business opportunities; abrogating

148 the enforcement and rulemaking authority of the

149 Department of Agriculture and Consumer Services;

150 amending s. 559.815, F.S.; conforming a cross-

151 reference; amending s. 559.9221, F.S.; revising the

152 membership of the Motor Vehicle Repair Advisory

153 Council; amending s. 616.242, F.S.; revising amusement

154 ride insurance coverage requirements; amending s.

155 721.20, F.S.; requiring specified persons who sell

156 timeshare plans to be licensed as commercial telephone

157 sellers or salespersons under ch. 501, F.S.; providing

158 an effective date.

159

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

161

162 Section 1. Subsection (1) of section 525.09, Florida

163 Statutes, is transferred, redesignated as paragraph (h) of

164 subsection (1) of section 206.41, Florida Statutes, and amended,

165 to read:

166 206.41 State taxes imposed on motor fuel.—

167 (1) The following taxes are imposed on motor fuel under the

168 circumstances described in subsection (6):

169 (h) ~~(1)~~ An additional 0.125 cent per net gallon is levied on

170 all motor fuel for sale or use in this state for the purpose of

171 defraying the expenses incident to inspecting, testing, and

172 analyzing motor fuel ~~petroleum fuels~~ in this state, ~~there shall~~



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173 ~~be paid to the department a charge of one eighth cent per gallon~~
174 ~~on all gasoline, kerosene (except when used as aviation turbine~~
175 ~~fuel), and #1 fuel oil for sale or use in this state. This~~
176 ~~inspection fee shall be imposed in the same manner as the motor~~
177 ~~fuel tax pursuant to s. 206.41. Payment shall be made on or~~
178 ~~before the 25th day of each month.~~

179 Section 2. Subsection (4) is added to section 206.45,
180 Florida Statutes, to read:

181 206.45 Payment of tax into State Treasury.—

182 (4) The department shall pay all moneys collected pursuant
183 to s. 206.41(1)(h) into the State Treasury for monthly
184 distribution into the General Inspection Trust Fund.

185 Section 3. Subsection (22) of section 493.6101, Florida
186 Statutes, is amended to read:

187 493.6101 Definitions.—

188 (22) "Repossession" means the recovery of a motor vehicle
189 as defined under s. 320.01(1), a mobile home as defined in s.
190 320.01(2), a motorboat as defined under s. 327.02, an aircraft
191 as defined in s. 330.27(1), a personal watercraft as defined in
192 s. 327.02, an all-terrain vehicle as defined in s. 316.2074,
193 farm equipment as defined under s. 686.402, or industrial
194 equipment, by an individual who is authorized by the legal
195 owner, lienholder, or lessor to recover, or to collect money
196 payment in lieu of recovery of, such property that was ~~which has~~
197 ~~been~~ sold or leased under a security agreement that contains a
198 repossession clause. As used in this subsection, the term
199 "industrial equipment" includes, but is not limited to,
200 tractors, road rollers, cranes, forklifts, backhoes, and
201 bulldozers. The term "industrial equipment" also includes other



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202 vehicles that are propelled by power other than muscular power
203 and that are used in the manufacture of goods or used in the
204 provision of services. A repossession is complete when a
205 licensed recovery agent is in control, custody, and possession
206 of such repossessed property. Property that is being repossessed
207 is considered to be in the control, custody, and possession of a
208 licensed recovery agent if the vehicle or other equipment being
209 repossessed has been secured in preparation for transport from
210 the site of the recovery by means of having been attached to, or
211 placed on, the towing or other transport vehicle, or if the
212 vehicle or equipment being repossessed is being operated or
213 about to be operated by a licensed recovery agent.

214 Section 4. Paragraph (b) of subsection (3) of section
215 493.6113, Florida Statutes, is amended to read:

216 493.6113 Renewal application for licensure.—

217 (3) Each licensee is responsible for renewing his or her
218 license on or before its expiration by filing with the
219 department an application for renewal accompanied by payment of
220 the prescribed license fee.

221 (b) Each Class "G" licensee shall additionally submit proof
222 that he or she has received during each year of the license
223 period a minimum of 4 hours of firearms recertification training
224 taught by a Class "K" licensee and has complied with such other
225 health and training requirements which the department may adopt
226 by rule. Proof of completion of recertification training must be
227 submitted to the department upon completion of that training. If
228 the documentation of completion of recertification training is
229 not submitted by the end of the first year of the license
230 period, the individual's license shall be automatically



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231 suspended until proof of such training is submitted to the
232 department. If the documentation of completion of
233 recertification training is not submitted by the end of the
234 second year of the license period, the license may not be
235 renewed unless ~~If proof of a minimum of 4 hours of annual~~
236 ~~firearms recertification training cannot be provided,~~ the
237 renewal applicant completes ~~shall complete~~ the minimum number of
238 hours of range and classroom training required at the time of
239 initial licensure. The department may waive the foregoing
240 firearms training requirement if:

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

246 2. The applicant provides proof that he or she is currently
247 certified as a federal law enforcement officer and has received
248 law enforcement firearms training administered by a federal law
249 enforcement agency annually during the previous 2 years of the
250 licensure period.

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

255 Section 5. Subsections (2) through (4) of section 493.6116,
256 Florida Statutes, are amended to read:

257 493.6116 Sponsorship of interns.—

258 (2) An internship may not commence until a licensee submits
259 ~~the sponsor has submitted~~ to the department a ~~the~~ notice of



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260 intent to sponsor. Such notice shall be on a form provided by
261 the department.

262 (3) An internship is intended to serve as a period of
263 learning process. Licensees who sponsor interns ~~Sponsors~~ shall
264 provide ~~assume a training status by providing~~ direction to and
265 maintain control of interns as part of this learning process.
266 Sponsors may ~~shall only sponsor interns whose place of business~~
267 ~~is within a 50-mile distance of the sponsor's place of business~~
268 ~~and shall~~ not allow interns to operate independently of ~~such~~
269 direction and control, or require interns to perform activities
270 that ~~which~~ do not enhance the intern's qualification for
271 licensure. Interns shall perform regulated duties within the
272 geographic boundaries of this state during the period of
273 internship.

274 (4) A licensee ~~No sponsor~~ may not sponsor more than six
275 interns at the same time.

276 Section 6. Present subsections (1) and (4) of section
277 493.6118, Florida Statutes, are amended, present subsections (2)
278 through (7) of that section are redesignated as subsections (3)
279 through (8), respectively, and a new subsection (2) is added to
280 that section, to read:

281 493.6118 Grounds for disciplinary action.—

282 (1) The following constitute grounds for which disciplinary
283 action specified in subsection (3) ~~(2)~~ may be taken by the
284 department against a ~~any~~ licensee, agency, or applicant
285 regulated by this chapter, or an ~~any~~ unlicensed person engaged
286 in activities regulated under this chapter.

287 (a) Fraud or willful misrepresentation in applying for or
288 obtaining a license.



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289 (b) Use of a ~~any~~ fictitious or assumed name by an agency
290 unless the agency has department approval and qualifies under s.
291 865.09.

292 (c) Being found guilty of or entering a plea of guilty or
293 nolo contendere to, regardless of adjudication, or being
294 convicted of a crime that directly relates to the business for
295 which the license is held or sought. A plea of nolo contendere
296 creates ~~shall create~~ a rebuttable presumption of guilt to the
297 underlying criminal charges, and the department shall allow the
298 individual being disciplined or denied an application for a
299 license to present any mitigating circumstances surrounding his
300 or her plea.

301 (d) A false statement by the licensee that an ~~any~~
302 individual is or has been in his or her employ.

303 (e) A finding that the licensee or an ~~any~~ employee of the
304 licensee is guilty of willful betrayal of a professional secret
305 or the ~~any~~ unauthorized release of information acquired as a
306 result of activities regulated under this chapter.

307 (f) Proof that the applicant or licensee is guilty of fraud
308 or deceit, or of negligence, incompetency, or misconduct, in the
309 practice of the activities regulated under this chapter.

310 (g) Conducting activities regulated under this chapter
311 without a license or with a revoked or suspended license.

312 (h) Failure of the licensee to maintain in full force and
313 effect the commercial general liability insurance coverage
314 required by s. 493.6110.

315 (i) Impersonating, or permitting or aiding and abetting an
316 employee to impersonate, a law enforcement officer or an
317 employee of the state, the United States, or a ~~any~~ political



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318 subdivision thereof by identifying himself or herself as a
319 federal, state, county, or municipal law enforcement officer or
320 official representative, by wearing a uniform or presenting or
321 displaying a badge or credentials that would cause a reasonable
322 person to believe that he or she is a law enforcement officer or
323 that he or she has official authority, by displaying ~~any~~
324 flashing or warning vehicular lights other than amber colored,
325 or by committing an ~~any~~ act that is intended to falsely convey
326 official status.

327 (j) Commission of an act of violence or the use of force on
328 a ~~any~~ person except in the lawful protection of one's self or
329 another from physical harm.

330 (k) Knowingly violating, advising, encouraging, or
331 assisting the violation of a ~~any~~ statute, court order, *capias*,
332 warrant, injunction, or cease and desist order, in the course of
333 business regulated under this chapter.

334 (l) Soliciting business for an attorney in return for
335 compensation.

336 (m) Transferring or attempting to transfer a license issued
337 pursuant to this chapter.

338 (n) Employing or contracting with an ~~any~~ unlicensed or
339 improperly licensed person or agency to conduct activities
340 regulated under this chapter, or performing an ~~any~~ act that
341 assists, aids, or abets a person or business entity in engaging
342 in unlicensed activity, when the licensure status was known or
343 could have been ascertained by reasonable inquiry.

344 (o) Failure or refusal to cooperate with or refusal of
345 access to an authorized representative of the department engaged
346 in an official investigation pursuant to this chapter.



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347 (p) Failure of a ~~any~~ partner, principal corporate officer,
348 or licensee to have his or her identification card in his or her
349 possession while on duty.

350 (q) Failure of a ~~any~~ licensee to have his or her license in
351 his or her possession while on duty, as specified in s.
352 493.6111(1).

353 (r) Failure or refusal by a sponsor to certify a biannual
354 written report on an intern or to certify completion or
355 termination of an internship to the department within 15 working
356 days.

357 (s) Failure to report to the department a ~~any~~ person whom
358 the licensee knows to be in violation of this chapter or the
359 rules of the department.

360 (t) Violating any provision of this chapter.

361 (u) For a Class "G" licensee, failing to complete
362 recertification training required to carry a firearm while
363 performing regulated duties.

364 (v) For a Class "K" licensee, failing to maintain active
365 certification as a professional firearms trainer.

366 (w) ~~(u)~~ For a Class "G" or a Class "K" applicant or
367 licensee, being prohibited from purchasing or possessing a
368 firearm by state or federal law.

369 (x) ~~(v)~~ In addition to the grounds for disciplinary action
370 prescribed in paragraphs (a)-(t), Class "R" recovery agencies,
371 Class "E" recovery agents, and Class "EE" recovery agent interns
372 are prohibited from committing the following acts:

373 1. Recovering a motor vehicle, mobile home, motorboat,
374 aircraft, personal watercraft, all-terrain vehicle, farm
375 equipment, or industrial equipment that has been sold under a



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376 conditional sales agreement or under the terms of a chattel
377 mortgage before authorization has been received from the legal
378 owner or mortgagee.

379 2. Charging for expenses not actually incurred in
380 connection with the recovery, transportation, storage, or
381 disposal of repossessed property or personal property obtained
382 in a repossession.

383 3. Using ~~any~~ repossessed property or personal property
384 obtained in a repossession for the personal benefit of a
385 licensee or an officer, director, partner, manager, or employee
386 of a licensee.

387 4. Selling property recovered under the provisions of this
388 chapter, except with written authorization from the legal owner
389 or the mortgagee thereof.

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

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

397 7. Failing to deliver to the client a negotiable instrument
398 that is payable to the client, within 10 working days after
399 receipt of such instrument.

400 8. Falsifying, altering, or failing to maintain ~~any~~
401 required inventory or records regarding disposal of personal
402 property contained in or on repossessed property pursuant to s.
403 493.6404(1).

404 9. Carrying a ~~any~~ weapon or firearm when he or she is on



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405 private property and performing duties under his or her license
406 whether or not he or she is licensed pursuant to s. 790.06.

407 10. Soliciting from the legal owner the recovery of
408 property subject to repossession after such property has been
409 seen or located on public or private property if the amount
410 charged or requested for such recovery is more than the amount
411 normally charged for such a recovery.

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

414 (2) It is unlawful for a person to knowingly possess,
415 issue, cause to be issued, sell, submit, or offer a fraudulent
416 training certificate, proficiency form, or other official
417 document that declares an applicant has successfully completed a
418 course of training required for licensure under chapter 493 if
419 that person knows or reasonably should know that the
420 certificate, form, or document is fraudulent. A violation of
421 this section is a felony of the third degree, punishable as
422 provided in s. 775.082, s. 775.083, or s. 775.084.

423 (5) ~~(4)~~ Notwithstanding the provisions of paragraph (1)(c)
424 and subsection (3) ~~(2)~~:

425 (a) If the applicant or licensee has been convicted of a
426 felony, the department shall deny the application or revoke the
427 license unless and until civil rights have been restored by the
428 State of Florida or by a state acceptable to Florida and a
429 period of 10 years has expired since final release from
430 supervision.

431 (b) A Class "G" applicant who has been convicted of a
432 felony must ~~shall~~ also have had the specific right to possess,
433 carry, or use a firearm restored by the State of Florida.



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434 (c) If the applicant or licensee has been found guilty of,
435 entered a plea of guilty to, or entered a plea of nolo
436 contendere to a felony and adjudication of guilt is withheld,
437 the department shall deny the application or revoke the license
438 until a period of 3 years has expired since final release from
439 supervision.

440 (d) A plea of nolo contendere creates ~~shall create~~ a
441 rebuttable presumption of guilt to the underlying criminal
442 charges, and the department shall allow the person being
443 disciplined or denied an application for a license to present
444 any mitigating circumstances surrounding his or her plea.

445 (e) The grounds for discipline or denial cited in this
446 subsection apply ~~shall be applied~~ to a ~~any~~ disqualifying
447 criminal history regardless of the date of commission of the
448 underlying criminal charge. Such provisions are ~~shall be~~ applied
449 retroactively and prospectively.

450 Section 7. Subsection (1) of section 493.6120, Florida
451 Statutes, is amended to read:

452 493.6120 Violations; penalty.—

453 (1) Any person who violates any provision of this chapter
454 except ss. 493.6118(2) and ~~s.~~ 493.6405 commits a misdemeanor of
455 the first degree, punishable as provided in s. 775.082 or s.
456 775.083.

457 Section 8. Subsection (3) of section 493.6121, Florida
458 Statutes, is amended to read:

459 493.6121 Enforcement; investigation.—

460 (3) The department has ~~shall have~~ the authority to
461 investigate a ~~any~~ licensed or unlicensed person, firm, company,
462 partnership, or corporation when such person, firm, company,



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463 partnership, or corporation is advertising as providing or is
464 engaged in performing services that ~~which~~ require licensure
465 under this chapter or when a licensee is engaged in activities
466 that ~~which~~ do not comply with or are prohibited by this chapter;
467 and the department has ~~shall have~~ the authority to issue an
468 order to cease and desist the further conduct of such
469 activities, or seek an injunction, or take other appropriate
470 action pursuant to s. 493.6118(3)(a) ~~493.6118(2)(a)~~ or (c).

471 Section 9. Paragraph (b) of subsection (1) and subsections
472 (2) and (7) of section 496.405, Florida Statutes, are amended to
473 read:

474 496.405 Registration statements by charitable organizations
475 and sponsors.—

476 (1)

477 (b) ~~Any~~ Changes in the information submitted on the initial
478 registration statement or the last renewal statement must be
479 updated annually on a renewal statement provided by the
480 department on or before the date that marks one year after the
481 date the department approved the initial registration statement
482 as provided in this section. The department shall annually
483 provide a renewal statement to each registrant by mail or by
484 electronic mail at least 30 ~~60~~ days before the renewal date.

485 (2) The initial registration statement must be submitted on
486 a form prescribed by the department, signed ~~under oath~~ by an
487 authorized official ~~the treasurer or chief fiscal officer~~ of the
488 charitable organization or sponsor who shall certify that the
489 registration statement is true and correct, and include the
490 following information or material:

491 (a) A copy of the financial report or Internal Revenue



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492 Service Form 990 and all attached schedules, ~~Schedule A~~ or
493 Internal Revenue Service Form 990-EZ and Schedule O, required
494 under s. 496.407 for the immediately preceding fiscal year. A
495 newly organized charitable organization or sponsor with no
496 financial history must file a budget for the current fiscal
497 year.

498 (b) The name of the charitable organization or sponsor, the
499 purpose for which it is organized, the name under which it
500 intends to solicit contributions, and the purpose or purposes
501 for which the contributions to be solicited will be used.

502 (c) The name of the individuals or officers who are in
503 charge of ~~any~~ solicitation activities.

504 (d) A statement of whether:

505 1. The charitable organization or sponsor is authorized by
506 another ~~any other~~ state to solicit contributions;

507 2. The charitable organization or sponsor or any of its
508 officers, directors, trustees, or principal salaried executive
509 personnel have been enjoined in any jurisdiction from soliciting
510 contributions or have been found to have engaged in unlawful
511 practices in the solicitation of contributions or administration
512 of charitable assets;

513 3. The charitable organization or sponsor has had its
514 registration or authority denied, suspended, or revoked by a ~~any~~
515 governmental agency, together with the reasons for such denial,
516 suspension, or revocation; and

517 4. The charitable organization or sponsor has voluntarily
518 entered into an assurance of voluntary compliance in any
519 jurisdiction or agreement similar to that set forth in s.
520 496.420, together with a copy of the ~~that~~ agreement.



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521 5. The charitable organization or sponsor or any of its
522 officers, directors, trustees, or employees, regardless of
523 adjudication, has been convicted of, or found guilty of, or pled
524 guilty or nolo contendere to, or has been incarcerated within
525 the last 10 years as a result of having previously been
526 convicted of, or found guilty of, or pled guilty or nolo
527 contendere to:7

528 a. A Any felony or any crime involving fraud, theft,
529 larceny, embezzlement, fraudulent conversion, misappropriation
530 of property, or any crime arising from the conduct of a
531 solicitation for a charitable organization or sponsor within the
532 last 10 years and, if so, the name of such person, the nature of
533 the offense, the date of the offense, the court having
534 jurisdiction in the case, the date of conviction or other
535 disposition, and the disposition of the offense.

536 b. A crime involving fraud, theft, larceny, embezzlement,
537 fraudulent conversion, misappropriation of property, or a crime
538 enumerated in this section or resulting from acts committed
539 while involved in the solicitation of contributions within the
540 last 10 years and, if so, the name of such person, the nature of
541 the offense, the date of the offense, the court having
542 jurisdiction in the case, the date of conviction or other
543 disposition, and the disposition of the offense.

544 6. The charitable organization or sponsor or any of its
545 officers, directors, trustees, or employees has been enjoined
546 from violating a any law relating to a charitable solicitation,
547 and, if so, the name of such person, the date of the injunction,
548 and the court issuing the injunction.

549 (e) The names, street addresses, and telephone numbers of a



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550 ~~any~~ professional solicitor, professional fundraising consultant,
551 and commercial co-venturer who is acting or has agreed to act on
552 behalf of the charitable organization or sponsor, together with
553 a statement setting forth the specific terms of the arrangements
554 for salaries, bonuses, commissions, expenses, or other
555 remunerations to be paid the fundraising consultant and
556 professional solicitor.

557 (f) With initial registration only, a statement showing
558 when and where the organization was established and the tax-
559 exempt status of the organization together with a copy of the
560 ~~any~~ federal tax exemption determination letter. If the
561 charitable organization or sponsor has not received a federal
562 tax exemption determination letter at the time of initial
563 registration, a copy of such determination must be filed with
564 the department within 30 days after receipt of the determination
565 by the charitable organization or sponsor. If the organization
566 is subsequently notified by the Internal Revenue Service of a
567 ~~any~~ challenge to its continued entitlement to federal tax
568 exemption, the charitable organization or sponsor shall notify
569 the department of this fact within 30 days after receipt.

570 (g) The following information must be filed with the
571 initial registration statement and must be updated when a ~~any~~
572 change occurs in the information that was previously filed with
573 the initial registration statement:

574 1. The principal street address and telephone number of the
575 organization and the street address and telephone numbers of ~~any~~
576 offices in this state or, if the charitable organization or
577 sponsor does not maintain an office in this state, the name,
578 street address, and telephone number of the person who ~~that~~ has



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579 custody of its financial records. The parent organization that
580 files a consolidated registration statement on behalf of its
581 chapters, branches, or affiliates must additionally provide the
582 street addresses and telephone numbers of all such locations in
583 this state.

584 2. The names and street addresses of the officers,
585 directors, trustees, and the principal salaried executive
586 personnel.

587 3. The date when the charitable organization's or sponsor's
588 fiscal year ends.

589 4. A list or description of the major program activities.

590 5. The names, street addresses, and telephone numbers of
591 the individuals or officers who have final responsibility for
592 the custody of the contributions and who will be responsible for
593 the final distribution of the contributions.

594 (7) The department must examine each initial registration
595 statement or annual renewal statement and the supporting
596 documents filed by a charitable organization or sponsor and
597 shall determine whether the registration requirements are
598 satisfied. Within 15 ~~10~~ working days after its receipt of a
599 statement, the department must examine the statement, notify the
600 applicant of ~~any~~ apparent errors or omissions, and request ~~any~~
601 additional information the department is allowed by law to
602 require. Failure to correct an error or omission or to supply
603 additional information is not grounds for denial of the initial
604 registration or annual renewal statement unless the department
605 has notified the applicant within the 15 ~~10~~-working-day period.
606 The department must approve or deny each statement, or must
607 notify the applicant that the activity for which she or he seeks



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608 registration is exempt from the registration requirement, within
609 15 ~~10~~ working days after receipt of the initial registration or
610 annual renewal statement or the requested additional information
611 or correction of errors or omissions. A ~~Any~~ statement that is
612 not approved or denied within 15 ~~10~~ working days after receipt
613 of the requested additional information or correction of errors
614 or omissions is approved. Within 7 working days after receipt of
615 a notification that the registration requirements are not
616 satisfied, the charitable organization or sponsor may request a
617 hearing. The hearing must be held within 7 working days after
618 receipt of the request, and the ~~any~~ recommended order, if one is
619 issued, must be rendered within 3 working days of the hearing.
620 The final order must then be issued within 2 working days after
621 the recommended order. If a recommended order is not issued, the
622 final order must be issued within 5 working days after the
623 hearing. The proceedings must be conducted in accordance with
624 chapter 120, except that the time limits and provisions set
625 forth in this subsection prevail to the extent of any conflict.

626 Section 10. Section 496.406, Florida Statutes, is amended
627 to read:

628 496.406 Exemption from registration. ~~The following~~
629 ~~charitable organizations and sponsors are exempt from the~~
630 ~~requirements of s. 496.405:~~

631 (1) The following charitable organizations and sponsors are
632 exempt from the requirements of s. 496.405:

633 (a) A person who is soliciting for a named individual,
634 provided that all the contributions collected without ~~any~~
635 deductions ~~whatsoever~~ are turned over to the beneficiary for her
636 or his use and provided that the person has complied with the



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637 requirements of s. 496.413.

638 (b)(2) A charitable organization or sponsor that ~~which~~
639 limits solicitation of contributions to the membership of the
640 charitable organization or sponsor. For the purposes of this
641 paragraph, the term "membership" does not include those persons
642 who are granted a membership upon making a contribution as a
643 result of a solicitation.

644 (c)(3) ~~A~~ Any division, department, post, or chapter of a
645 veterans' service organization granted a federal charter under
646 Title 36, United States Code.

647 (d) Charitable organizations or sponsors that have less
648 than \$25,000 in total revenue during a fiscal year, if the
649 fundraising activities of such organization or sponsor are
650 carried on by volunteers, members, or officers who are not
651 compensated and if no part of the assets or income of such
652 organization or sponsor inures to the benefit of or is paid to
653 an officer or member of such organization, sponsor, professional
654 fundraising consultant, professional solicitor, or commercial
655 co-venturer. If a charitable organization or sponsor that has
656 less than \$25,000 in total revenue during a fiscal year acquires
657 total revenue in excess of that amount, the charitable
658 organization or sponsor must register with the department as
659 required by s. 496.405 within 30 days after the date the revenue
660 reaches \$25,000.

661 (2) Before soliciting contributions, each charitable
662 organization or sponsor under paragraph (1)(d) claiming to be
663 exempt from the registration requirements specified in s.
664 496.405 shall submit annually to the department, on forms
665 prescribed by the department:



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666 (a) The name, address, and phone number of the charitable
667 organization or sponsor, the name under which it intends to
668 solicit contributions, the purpose for which it is organized,
669 and the purpose or purposes for which the solicited
670 contributions will be used.

671 (b) The tax exempt status of the organization.

672 (c) The date the organization's fiscal year ends.

673 (d) The names, street addresses, and telephone numbers of
674 the individuals or officers who have final responsibility for
675 the custody of the contributions and who will be responsible for
676 the final distribution of the contributions.

677 (e) A financial statement of support, revenue, and expenses
678 and a statement of functional expenses which must include, but
679 need not be limited to, expenses in the following categories:
680 program, management and general, and fundraising. In lieu of the
681 financial statement, a charitable organization or sponsor may
682 submit a copy of its Internal Revenue Service Form 990 with
683 attached schedules or 990-EZ with Schedule O.

684 (3) A charitable organization or sponsor claiming to be
685 exempt from the registration requirements of this chapter shall
686 submit such information that the department may request to
687 substantiate an exemption under this section. A charitable
688 organization or sponsor that fails to submit evidence
689 satisfactory to the department is not exempt from the
690 requirements of this chapter. In any proceeding, the burden of
691 proving an exemption is upon the organization or sponsor
692 claiming the exemption.

693 (4) Exemption from the registration requirements of s.
694 496.405 does not limit the applicability of other provisions of



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695 this section to a charitable organization or sponsor.

696 Section 11. Subsection (2) of section 496.407, Florida
697 Statutes, is amended to read:

698 496.407 Financial report.—

699 (2) In lieu of the financial report described in subsection
700 (1), a charitable organization or sponsor may submit a copy of
701 its Internal Revenue Service Form 990 and all attached schedules
702 ~~Schedule A~~ filed for the preceding fiscal year, or a copy of its
703 Form 990-EZ and Schedule O filed for the preceding fiscal year.

704 Section 12. Subsections (2), (3), and (6) of section
705 496.409, Florida Statutes, are amended to read:

706 496.409 Registration and duties of professional fundraising
707 consultant.—

708 (2) Applications for registration or renewal of
709 registration must be submitted on a form prescribed by the
710 department, signed by an authorized official of the professional
711 fundraising consultant who shall certify that the report is true
712 and correct under oath, and must include the following
713 information:

714 (a) The street address and telephone number of the
715 principal place of business of the applicant and a any Florida
716 street addresses if the principal place of business is located
717 outside this state.

718 (b) The form of the applicant's business.

719 (c) The names and residence addresses of all principals of
720 the applicant, including all officers, directors, and owners.

721 (d) Whether any of the owners, directors, officers, or
722 employees of the applicant are related as parent, child, spouse,
723 or sibling to ~~any~~ other directors, officers, owners, or



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724 employees of the applicant; to an ~~any~~ officer, director,
725 trustee, or employee of a ~~any~~ charitable organization or sponsor
726 under contract to the applicant; or to a ~~any~~ supplier or vendor
727 providing goods or services to a ~~any~~ charitable organization or
728 sponsor under contract to the applicant.

729 (e) Whether the applicant or any of its officers,
730 directors, trustees, or employees have, within the last 10
731 years, regardless of adjudication, been convicted, or found
732 guilty of, or pled guilty or nolo contendere to, or have been
733 incarcerated within the last 10 years as a result of having
734 previously been convicted of, or found guilty of, or pled guilty
735 or nolo contendere to, a ~~any~~ felony and, if so, the name of such
736 person, the nature of the offense, the date of the offense, the
737 court having jurisdiction in the case, the date of conviction or
738 other disposition, and the disposition of the offense.

739 (f) Whether the applicant or any of its officers,
740 directors, trustees, or employees have, regardless of
741 adjudication, been convicted of, or found guilty of, or pled
742 guilty or nolo contendere to, or have been incarcerated within
743 the last 10 years as a result of having previously been
744 convicted of, or found guilty of, or pled guilty or nolo
745 contendere to, a crime within the last 10 years involving fraud,
746 theft, larceny, embezzlement, fraudulent conversion, or
747 misappropriation of property, or a ~~any~~ crime arising from the
748 conduct of a solicitation for a charitable organization or
749 sponsor and, if so, the name of such person, the nature of the
750 offense, the date of the offense, the court having jurisdiction
751 in the case, the date of conviction or other disposition, and
752 the disposition of the offense.



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753 (g) Whether the applicant or any of its officers,
754 directors, trustees, or employees have been enjoined from
755 violating a ~~any~~ law relating to a charitable solicitation and,
756 if so, the name of such person, the date of the injunction, and
757 the court issuing the injunction.

758 (3) The application for registration must be accompanied by
759 a fee of \$300. A professional fundraising consultant that ~~which~~
760 is a partnership or corporation may register for and pay a
761 single fee on behalf of all of its partners, members, officers,
762 directors, agents, and employees. In that case, the names and
763 street addresses of all the officers, employees, and agents of
764 the fundraising consultant and all other persons with whom the
765 fundraising consultant has contracted to work under its
766 direction must be listed in the application. Each registration
767 is valid for 1 year ~~or a part of 1 year and expires on March 31~~
768 ~~of each year~~. The registration may be renewed ~~on or before March~~
769 ~~31 of each year~~ for additional 1-year periods upon application
770 to the department and payment of the registration fee.

771 (6) The department shall examine each registration
772 statement and supporting documents filed by a professional
773 fundraising consultant and determine whether the registration
774 requirements are satisfied. If the department determines that
775 the registration requirements are not satisfied, the department
776 must notify the professional fundraising consultant within 15 ~~10~~
777 working days after its receipt of the registration statement;
778 otherwise the registration statement is approved. Within 7
779 working days after receipt of a notification that the
780 registration requirements are not satisfied, the applicant may
781 request a hearing. The hearing must be held within 7 working



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782 days after receipt of the request, and the ~~any~~ recommended
783 order, if one is issued, must be rendered within 3 working days
784 after the hearing. The final order must then be issued within 2
785 working days after the recommended order. If there is no
786 recommended order, the final order must be issued within 5
787 working days after the hearing. The proceedings must be
788 conducted in accordance with chapter 120, except that the time
789 limits and provisions set forth in this subsection prevail to
790 the extent of any conflict.

791 Section 13. Subsections (2), (3), (5), and (8) of section
792 496.410, Florida Statutes, are amended to read:

793 496.410 Registration and duties of professional
794 solicitors.—

795 (2) Applications for registration or renewal of
796 registration must be submitted on a form prescribed by rule of
797 the department, signed by an authorized official of the
798 professional solicitor who shall certify that the report is true
799 and correct ~~under oath~~, and must include the following
800 information:

801 (a) The street address and telephone number of the
802 principal place of business of the applicant and a ~~any~~ Florida
803 street addresses if the principal place of business is located
804 outside this state.

805 (b) The form of the applicant's business.

806 (c) The place and date when the applicant, if other than an
807 individual, was legally established.

808 (d) The names and residence addresses of all principals of
809 the applicant, including all officers, directors, and owners.

810 (e) A statement as to whether any of the owners, directors,



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811 officers, or employees of the applicant are related as parent,
812 spouse, child, or sibling to ~~any~~ other directors, officers,
813 owners, or employees of the applicant; to an ~~any~~ officer,
814 director, trustee, or employee of a ~~any~~ charitable organization
815 or sponsor under contract to the applicant; or to a ~~any~~ supplier
816 or vendor providing goods or services to a ~~any~~ charitable
817 organization or sponsor under contract to the applicant.

818 (f) A statement as to whether the applicant or any of its
819 directors, officers, trustees, persons with a controlling
820 interest in the applicant, or employees or agents involved in
821 solicitation have, within the last 10 years, regardless of
822 adjudication, been convicted of, or found guilty of, or pled
823 guilty or nolo contendere to, or have been incarcerated within
824 the last 10 years as a result of having previously been
825 convicted of, or found guilty of, or pled guilty or nolo
826 contendere to, a ~~any~~ felony and, if so, the name of such person,
827 the nature of the offense, the date of the offense, the court
828 having jurisdiction in the case, the date of conviction or other
829 disposition, and the disposition of the offense.

830 (g) A statement as to whether the applicant or any of its
831 directors, officers, trustees, persons with a controlling
832 interest in the applicant, or employees or agents involved in
833 solicitation have, regardless of adjudication, been convicted
834 of, or found guilty of, or pled guilty or nolo contendere to, or
835 have been incarcerated within the last 10 years as a result of
836 having previously been convicted of, or found guilty of, or pled
837 guilty or nolo contendere to, a crime within the last 10 years
838 involving fraud, theft, larceny, embezzlement, fraudulent
839 conversion, or misappropriation of property, or a ~~any~~ crime



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840 arising from the conduct of a solicitation for a charitable
841 organization or sponsor and, if so, the name of such person, the
842 nature of the offense, the date of the offense, the court having
843 jurisdiction in the case, the date of conviction or other
844 disposition, and the disposition of the offense.

845 (h) A statement as to whether the applicant or any of its
846 directors, officers, trustees, persons with a controlling
847 interest in the applicant, or employees or agents involved in
848 solicitation have been enjoined from violating a ~~any~~ law
849 relating to a charitable solicitation and, if so, the name of
850 such person, the date of the injunction, and the court issuing
851 the injunction.

852 (i) The names of all persons in charge of ~~any~~ solicitation
853 activity.

854 (3) The application for registration must be accompanied by
855 a fee of \$300. A professional solicitor that is a partnership or
856 corporation may register for and pay a single fee on behalf of
857 all of its partners, members, officers, directors, agents, and
858 employees. In that case, the names and street addresses of all
859 the officers, employees, and agents of the professional
860 solicitor and all other persons with whom the professional
861 solicitor has contracted to work under its direction, including
862 solicitors, must be listed in the application or furnished to
863 the department within 5 days after the date of employment or
864 contractual arrangement. Each registration is valid for 1 year
865 ~~or a part of 1 year and expires on March 31 of each year.~~ The
866 registration may be renewed ~~on or before March 31 of each year~~
867 for an additional 1-year period upon application to the
868 department and payment of the registration fee.



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869 (5) The department must examine each registration statement
870 and supporting documents filed by a professional solicitor. If
871 the department determines that the registration requirements are
872 not satisfied, the department must notify the professional
873 solicitor within 15 ~~10~~ working days after its receipt of the
874 registration statement; otherwise the registration statement is
875 approved. Within 7 working days after receipt of a notification
876 that the registration requirements are not satisfied, the
877 applicant may request a hearing. The hearing must be held within
878 7 working days after receipt of the request, and the ~~any~~
879 recommended order, if one is issued, must be rendered within 3
880 working days after the hearing. The final order must then be
881 issued within 2 working days after the recommended order. If
882 there is no recommended order, the final order must be issued
883 within 5 working days after the hearing. The proceedings must be
884 conducted in accordance with chapter 120, except that the time
885 limits and provisions set forth in this subsection prevail to
886 the extent of any conflict.

887 (8) Within 45 ~~90~~ days after a solicitation campaign has
888 been completed and within 45 days after ~~on~~ the anniversary of
889 the commencement of a solicitation campaign lasting more than 1
890 year, the professional solicitor must provide to the charitable
891 organization or sponsor and file with the department a financial
892 report of the campaign, including the gross revenue received and
893 an itemization of all expenses incurred. The report must be
894 completed on a form prescribed by the department and signed by
895 an authorized official of the professional solicitor who shall
896 certify ~~under oath~~ that the report is true and correct.

897 Section 14. Subsections (3) and (6) of section 496.411,



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898 Florida Statutes, are amended to read:

899 496.411 Disclosure requirements and duties of charitable
900 organizations and sponsors.—

901 (3) Every charitable organization or sponsor ~~that~~ which is
902 required to register under s. 496.405 must conspicuously display
903 ~~in capital letters the following statement~~ on every printed
904 solicitation, written confirmation, receipt, or reminder of a
905 contribution:

906 (a) Its registration number; and

907 (b) The following statement written in capital letters
908 which must include a toll-free telephone number for the division
909 which can be used to obtain the registration information:

910
911 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
912 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
913 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
914 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
915 APPROVAL, OR RECOMMENDATION BY THE STATE."

916
917 ~~If The statement must include a toll-free number for the~~
918 ~~division that can be used to obtain the registration~~
919 ~~information. When the solicitation consists of more than a~~
920 ~~single item one piece, the registration number and statement~~
921 ~~must be displayed prominently in the solicitation materials.~~

922 ~~(6) Each charitable organization or sponsor that is~~
923 ~~required to register under s. 496.405 shall conspicuously~~
924 ~~display the following information on every printed solicitation,~~
925 ~~written confirmation, receipt, or reminder of a contribution:~~

926 ~~(a) The organization's or sponsor's registration number~~



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927 ~~issued by the department under this chapter.~~

928 ~~(b) The percentage, if any, of each contribution that is~~
929 ~~retained by any professional solicitor that has contracted with~~
930 ~~the organization or sponsor.~~

931 ~~(c) The percentage of each contribution that is received by~~
932 ~~the organization or sponsor.~~

933

934 ~~If the solicitation consists of more than a single item, the~~
935 ~~statement shall be displayed prominently in the solicitation~~
936 ~~materials.~~

937 Section 15. Subsection (2) of section 496.415, Florida
938 Statutes, is amended to read:

939 496.415 Prohibited acts.—It is unlawful for any person in
940 connection with the planning, conduct, or execution of any
941 solicitation or charitable or sponsor sales promotion to:

942 (2) Knowingly file false, ~~or~~ misleading, or inaccurate
943 information in a any document required to be filed with the
944 department, provided to the public, or in response to a any
945 request or investigation by the department, the Department of
946 Legal Affairs, or the State Attorney.

947 Section 16. Present subsections (4) through (9) of section
948 496.419, Florida Statutes, are redesignated as subsections (5)
949 through (10), respectively, a new subsection (4) is added to
950 that section, and present subsections (4) through (9) are
951 amended, to read:

952 496.419 Powers of the department.—

953 (4) A violation of s. 496.415(3), (5), (6), (10), (12),
954 (13), or (14) constitutes an immediate threat to the public
955 health, safety, and welfare and is sufficient grounds for the



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956 department to issue an immediate order to cease and desist all
957 solicitation activities. The order acts as an immediate final
958 order under s. 120.569(2)(n) and shall remain in effect until
959 the violation has been remedied pursuant to this part.

960 (5)(4) The department may enter an order imposing one or
961 more of the penalties set forth in subsection (6) ~~(5)~~ if the
962 department finds that a charitable organization, sponsor,
963 professional fundraising consultant, or professional solicitor,
964 or an agent, servant, or employee thereof has:

965 (a) Violated or is operating in violation of ~~any of the~~
966 ~~provisions of~~ ss. 496.401-496.424 or s. 496.426 or of the rules
967 adopted or orders issued thereunder;

968 (b) Made a material false statement in an application,
969 statement, or report required to be filed under ss. 496.401-
970 496.424 or s. 496.426;

971 (c) Refused or failed, or any of its principal officers has
972 refused or failed, after notice, to produce the ~~any~~ records of
973 such organization or to disclose ~~any~~ information required to be
974 disclosed under ss. 496.401-496.424 or s. 496.426 or the rules
975 of the department; or

976 (d) Made a material false statement in response to a ~~any~~
977 request or investigation by the department, the Department of
978 Legal Affairs, or the State Attorney.

979 (6)(5) Upon a finding as set forth in subsection (5) ~~(4)~~,
980 the department may enter an order doing one or more of the
981 following:

982 (a) Issuing a notice of noncompliance pursuant to s.
983 120.695;

984 (b) Issuing a cease and desist order that directs that the



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985 person cease and desist specified fundraising activities;

986 (c) Refusing to register or canceling or suspending a
987 registration;

988 (d) Placing the registrant on probation for a period of
989 time, subject to such conditions as the department may specify;

990 (e) Canceling an exemption granted under s. 496.406; and

991 (f) Imposing an administrative fine not to exceed \$1,000
992 for each act or omission that ~~which~~ constitutes a violation of
993 ss. 496.401-496.424 or s. 496.426 or a rule or order.

994
995 With respect to a s. 501(c)(3) organization, the penalty imposed
996 pursuant to this subsection may ~~shall~~ not exceed \$500 per
997 violation. The penalty is ~~shall be~~ the entire amount per
998 violation and may ~~is~~ not ~~to~~ be interpreted as a daily penalty.

999 (7) ~~(6)~~ Except as otherwise provided in this section, the
1000 administrative proceedings that could result in the entry of an
1001 order imposing ~~any~~ of the penalties specified in subsection (6)
1002 ~~(5)~~ are governed by chapter 120, except that the applicable
1003 provisions and time limits specified in s. 496.405(7), s.
1004 496.409(6), or s. 496.410(5) apply if the department determines
1005 that a registration should be refused.

1006 (8) ~~(7)~~ The department may forward an investigative report
1007 and supporting documentation of an ~~any~~ investigation conducted
1008 pursuant to this section to the Department of Legal Affairs. The
1009 report must identify proposed ~~any~~ administrative actions or
1010 actions that ~~are proposed or~~ have been commenced by the
1011 department in accordance with subsection (5) ~~(4)~~.

1012 (9) ~~(8)~~ The department shall report a ~~any~~ substantiated
1013 criminal violation of ss. 496.401-496.424 or s. 496.426 to the



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1014 proper prosecuting authority for prompt prosecution.

1015 ~~(10)(9)~~ All fines collected by the department under
1016 subsection (6) ~~(5)~~ must be paid into the General Inspection
1017 Trust Fund.

1018 Section 17. Subsections (1), (2), and (4) of section
1019 501.016, Florida Statutes, are amended to read:

1020 501.016 Health studios; security requirements.—Each health
1021 studio that sells contracts for health studio services shall
1022 meet the following requirements:

1023 (1) Each health studio shall maintain for each separate
1024 business location a bond issued by a surety company admitted to
1025 do business in this state. The principal sum of the bond must be
1026 \$25,000 ~~shall be \$50,000~~, and the bond, when required, shall be
1027 obtained before a business tax receipt may be issued under
1028 chapter 205. Upon issuance of a business tax receipt, the
1029 licensing authority shall immediately notify the department of
1030 such issuance in a manner established by the department by rule.
1031 The bond shall be in favor of the state for the benefit of any
1032 person injured as a result of a violation of ss. 501.012-
1033 501.019. The aggregate liability of the surety to all persons
1034 for all breaches of the conditions of such ~~the~~ bonds may not
1035 ~~provided herein shall in no event~~ exceed the amount of the bond.
1036 The original surety bond required by this section shall be filed
1037 with the department.

1038 (2) In lieu of maintaining the bond required in subsection
1039 (1), the health studio may furnish to the department:

1040 (a) An irrevocable letter of credit from a ~~any~~ foreign or
1041 domestic bank in the amount of \$25,000 ~~\$50,000~~; or

1042 (b) A guaranty agreement that ~~which~~ is secured by a



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1043 certificate of deposit in the amount of \$25,000 ~~\$50,000~~.

1044

1045 The original letter of credit or certificate of deposit
1046 submitted in lieu of the bond shall be filed with the
1047 department. The department shall determine ~~decide~~ whether the
1048 security furnished in lieu of bond by the health studio is in
1049 compliance with the requirements of this section.

1050 (4) If the health studio furnishes the department with
1051 evidence satisfactory to the department that the aggregate
1052 dollar amount of all current outstanding contracts of the health
1053 studio is less than \$5,000, the department may, at its
1054 discretion, reduce the principal amount of the surety bond or
1055 other sufficient financial responsibility required in
1056 subsections (1) and (2) to a sum of not less than \$10,000.
1057 However, the health studio shall notify the department ~~at~~ any
1058 time the aggregate dollar amount of such contracts exceeds
1059 ~~\$5,000, the health studio shall so notify the department and~~
1060 shall thereupon provide the bond or other documentation as
1061 required in subsections (1) and (2). Health studios whose bonds
1062 have been reduced must provide the department with an annually
1063 updated list of members. The department shall raise the security
1064 requirement to \$25,000 for a health studio that fails ~~Failure to~~
1065 ~~file an annual report will result in the department raising the~~
1066 ~~security requirement to \$50,000.~~

1067 Section 18. Subsection (4) of section 501.059, Florida
1068 Statutes, is amended to read:

1069 501.059 Telephone solicitation.—

1070 (4) (a) A ~~No~~ telephone solicitor may not ~~shall~~ make or cause
1071 to be made any unsolicited telephonic sales call to a ~~any~~



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1072 residential, mobile, or telephonic paging device telephone
1073 number if the number for that telephone appears in the then-
1074 current quarterly listing published by the department. A ~~Any~~
1075 telephone solicitor or person who offers for sale ~~any~~ consumer
1076 information that ~~which~~ includes residential, mobile, or
1077 telephonic paging device telephone numbers, except directory
1078 assistance and telephone directories sold by telephone companies
1079 and organizations exempt under s. 501(c)(3) or (6) of the
1080 Internal Revenue Code, shall screen and exclude those numbers
1081 that ~~which~~ appear on the division's then-current "no sales
1082 solicitation calls" list. This subsection does not apply to a
1083 ~~any~~ person licensed pursuant to chapter 475 who calls an actual
1084 or prospective seller or lessor of real property when such call
1085 is made in response to a yard sign or other form of
1086 advertisement placed by the seller or lessor.

1087 (b) A person is in violation of this subsection if the
1088 person initiates an outbound telephonic sales call to a consumer
1089 who has previously communicated to the telephone solicitor that
1090 he or she does not wish to receive an outbound telephone call:

1091 1. Made by or on behalf of the seller whose goods or
1092 services are being offered; or

1093 2. Made by or on behalf of a charitable organization for
1094 which a charitable contribution is being solicited.

1095 Section 19. Subsections (1) and (2) of section 501.603,
1096 Florida Statutes, are amended to read:

1097 501.603 Definitions.—As used in this part, unless the
1098 context otherwise requires, the term:

1099 (1) "Commercial telephone solicitation" means:

1100 (a) An unsolicited telephone call to a person initiated by



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1101 a commercial telephone seller or salesperson, or an automated
1102 dialing machine used in accordance with the provisions of s.
1103 501.059(7) for the purpose of inducing the person to purchase or
1104 invest in consumer goods or services;

1105 (b) Other communication with a person where:

1106 1. A gift, award, or prize is offered; or

1107 2. A telephone call response is invited; and

1108 3. The salesperson intends to complete a sale or enter into
1109 an agreement to purchase or invest in consumer goods or services
1110 during the course of the telephone call; or

1111 (c) Other communication with a person which represents a
1112 price, quality, or availability of consumer goods or services
1113 and which invites a response by telephone or which is followed
1114 by a call to the person by a salesperson.

1115
1116 For purposes of this section, "other communication" means a
1117 written or oral notification or advertisement transmitted
1118 through any means. Also, for purposes of this section, "invites
1119 a response by telephone" does not mean the mere listing or
1120 including of a telephone number in a notification or
1121 advertisement.

1122 (2) "Commercial telephone seller" means a ~~any~~ person who
1123 engages in commercial telephone solicitation on his or her own
1124 behalf or through salespersons, except that a commercial
1125 telephone seller does not include ~~any of the~~ persons or entities
1126 operating under a properly filed and valid affidavit of
1127 exemption pursuant to ~~exempted from this part by~~ s. 501.604. A
1128 commercial telephone seller does not include a salesperson as
1129 defined in subsection (10). A commercial telephone seller



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1130 includes, but is not limited to, owners, operators, officers,
1131 directors, partners, or other individuals engaged in the
1132 management activities of a business entity pursuant to this
1133 part.

1134 Section 20. Subsections (4), (7), (10), (14), and (24) of
1135 section 501.604, Florida Statutes, are amended to read:

1136 501.604 Exemptions.—The provisions of this part, except ss.
1137 501.608 and 501.616(6) and (7), do not apply to:

1138 (4) A ~~Any~~ licensed securities, commodities, or investment
1139 broker, dealer, or investment adviser, when soliciting within
1140 the scope of his or her license, or a ~~any~~ licensed associated
1141 person of a securities, commodities, or investment broker,
1142 dealer, or investment adviser, when soliciting within the scope
1143 of his or her license. As used in this section, "licensed
1144 securities, commodities, or investment broker, dealer, or
1145 investment adviser" means a person subject to license or
1146 registration as such by the Securities and Exchange Commission,
1147 by the Financial Industry Regulatory Authority ~~National~~
1148 ~~Association of Securities Dealers~~ or other self-regulatory
1149 organization as defined by the Securities Exchange Act of 1934,
1150 15 U.S.C. s. 781, or by an official or agency of this or another
1151 ~~or of any state~~ of the United States. As used in this
1152 section, "licensed associated person of a securities,
1153 commodities, or investment broker, dealer, or investment
1154 adviser" means an ~~any~~ associated person registered or licensed
1155 by the Financial Industry Regulatory Authority ~~National~~
1156 ~~Association of Securities Dealers~~ or other self-regulatory
1157 organization as defined by the Securities Exchange Act of 1934,
1158 15 U.S.C. s. 781, or by an official or agency of this or another



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1159 state ~~or of any state~~ of the United States.

1160 (7) A ~~Any~~ supervised financial institution or parent,
1161 subsidiary, or affiliate thereof operating within the scope of
1162 the supervised activity. As used in this section, "supervised
1163 financial institution" means a ~~any~~ commercial bank, trust
1164 company, savings and loan association, mutual savings bank,
1165 credit union, industrial loan company, consumer finance lender,
1166 commercial finance lender, or insurer, provided that the
1167 institution is subject to supervision by an official or agency
1168 of this state, of any state, or of the United States. For the
1169 purposes of this exemption, "affiliate" means a person who
1170 directly, or indirectly through one or more intermediaries,
1171 controls or is controlled by, or is under common control with, a
1172 supervised financial institution.

1173 (10) A business-to-business sale where:

1174 (a) The commercial telephone seller has been lawfully
1175 operating continuously for at least 3 years under the same
1176 business name and has at least 50 percent of its dollar volume
1177 consisting of repeat sales to existing businesses;

1178 (b) The purchaser business intends to resell or offer for
1179 purposes of advertisement or as a promotional item the property
1180 or goods purchased; or

1181 (c) The purchaser business intends to use the property or
1182 goods purchased in a recycling, reuse, remanufacturing, or
1183 manufacturing process.

1184 (14) A telephone company subject to the provisions of
1185 chapter 364, or affiliate thereof or its agents, or a
1186 telecommunications business that ~~which~~ is regulated by the
1187 Florida Public Service Commission, or a Federal Communications



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1188 Commission licensed cellular telephone company or other bona
1189 fide radio telecommunication services provider. For the purposes
1190 of this exemption, "affiliate" means a person who directly, or
1191 indirectly through one or more intermediaries, controls or is
1192 controlled by, or is under common control with, a telephone
1193 company subject to the provisions of chapter 364.

1194 (24) An entity that ~~Any person which~~ has been lawfully
1195 providing telemarketing sales services continuously for at least
1196 5 years under the same ownership and control and that ~~which~~
1197 derives 75 percent of its gross telemarketing sales revenues
1198 from contracts with persons exempted in this section.

1199 Section 21. Present paragraphs (c) through (h) of
1200 subsection (1) of section 501.607, Florida Statutes, are
1201 redesignated as paragraphs (b) through (g), respectively, and
1202 present paragraph (b) of subsection (1) of that section is
1203 amended, to read:

1204 501.607 Licensure of salespersons.—

1205 (1) An applicant for a license as a salesperson must submit
1206 to the department, in such form as it prescribes, a written
1207 application for a license. The application must set forth the
1208 following information:

1209 ~~(b) Each business or occupation engaged in by the applicant~~
1210 ~~during the 3 years immediately preceding the date of the~~
1211 ~~application, and the location thereof.~~

1212 Section 22. Paragraph (b) of subsection (1) and subsections
1213 (2) and (3) of section 501.608, Florida Statutes, are amended to
1214 read:

1215 501.608 License or affidavit of exemption; occupational
1216 license.—



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1217 (1)

1218 (b) A ~~Any~~ commercial telephone seller that claims ~~claiming~~

1219 to be exempt from the act under s. 501.604(2), (3), (5), (6),

1220 (9), (10), (11), (12), (17), (21), (22), (24), or (26) must file

1221 with the department a notarized affidavit of exemption. The

1222 affidavit of exemption must be on forms prescribed by the

1223 department and must require the name of the commercial telephone

1224 seller, the name of the business, and the business address. A

1225 ~~Any~~ commercial telephone seller that maintains ~~maintaining~~ more

1226 than one business may file a single notarized affidavit of

1227 exemption that clearly indicates the location of each place of

1228 business. If a change of ownership occurs, the commercial

1229 telephone seller must notify the department. At the request of

1230 the department, the commercial telephone seller shall provide

1231 sales scripts, contracts, and other documentation in order to

1232 determine if the affidavit of exemption is appropriate before

1233 accepting such affidavit for filing.

1234 (2) Each licensee or person operating under a valid and

1235 appropriately filed exemption ~~claiming an exemption~~ shall

1236 prominently display his or her license or a copy of his or her

1237 receipt of filing of the affidavit of exemption at each location

1238 where he or she does business. Each licensee or person claiming

1239 an exemption shall make the license or the receipt of filing

1240 ~~copy~~ of the affidavit of exemption available for inspection upon

1241 request by a ~~by any~~ governmental agency ~~upon request.~~

1242 (3) Failure to obtain or display a license or ~~a copy of the~~

1243 receipt of filing of an affidavit of exemption is sufficient

1244 grounds for the department to issue an immediate cease and

1245 desist order, which acts ~~shall act~~ as an immediate final order



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1246 under s. 120.569(2)(n). The order shall ~~may~~ remain in effect
1247 until the commercial telephone seller or a person claiming to be
1248 exempt shows the authorities that he or she is properly licensed
1249 or exempt. The department may order the business to cease
1250 operations and shall order the phones to be shut off. Failure of
1251 a salesperson to display a license or the receipt of filing of
1252 an affidavit of exemption may result in the salesperson being
1253 summarily ordered by the department to leave the office until he
1254 or she can produce a license or a receipt of filing of an
1255 affidavit of exemption for the department.

1256 Section 23. Subsection (3) of section 501.611, Florida
1257 Statutes, is amended to read:

1258 501.611 Security.—

1259 (3) The bond shall be posted with the department and must
1260 remain in force throughout the period of licensure with the
1261 department.

1262 Section 24. Subsection (12) of section 501.615, Florida
1263 Statutes, is amended to read:

1264 501.615 Written contract; cancellation; refund.—

1265 (12) A sale in which the consumer is given a full refund
1266 for the return of undamaged and unused goods or in which a
1267 cancellation of services notice is given to the seller within 7
1268 days after the date of the sale is exempt from the requirements
1269 of subsections (1)-(5). A commercial telephone seller or
1270 salesperson engaged in activity regulated by chapter 721 must
1271 comply with s. 721.205 ~~Exempt from the requirements of~~
1272 ~~subsections (1)-(5) is any sale in which the consumer is given a~~
1273 ~~full refund for the return of undamaged and unused goods or a~~
1274 ~~cancellation of services notice is given to the seller, within 7~~



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1275 ~~days after receipt of the goods or services by the consumer, and~~
1276 ~~the seller shall process the refund within 30 days after receipt~~
1277 ~~of the returned merchandise by the consumer.~~

1278 Section 25. Subsection (1) of section 501.617, Florida
1279 Statutes, is amended to read:

1280 501.617 Investigative powers of enforcing authority.-

1281 (1) If, by her or his own inquiries or as a result of
1282 complaints, the enforcing authority has reason to believe that a
1283 person has engaged in, or is engaging in, an act or practice
1284 that violates the provisions of this part, she or he may
1285 administer oaths and affirmations, subpoena witnesses or matter,
1286 conduct regulatory inspections, and collect evidence. Within 10
1287 days after the service of a subpoena or at any time before the
1288 return date specified therein, whichever is longer, the party
1289 served may file in the circuit court in the county in which she
1290 or he resides or in which she or he transacts business and serve
1291 upon the enforcing authority a petition for an order modifying
1292 or setting aside the subpoena. The petitioner may raise an ~~any~~
1293 objection or privilege that ~~which~~ would be available under this
1294 part or upon service of such subpoena in a civil action. The
1295 subpoena must ~~shall~~ inform the party served of her or his rights
1296 under this subsection.

1297 Section 26. Subsection (10) is added to section 507.03,
1298 Florida Statutes, to read:

1299 507.03 Registration.-

1300 (10) Upon the request of the department, each moving broker
1301 shall provide a complete list of the movers it has contracted or
1302 affiliated with, advertises on behalf of, arranges moves for, or
1303 to which it refers shippers. Such list, at a minimum, must



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1304 include the mover's complete name, address, telephone number,
1305 email address, and name of the owner or other principal.

1306 Section 27. Paragraph (b) of subsection (1) of section
1307 507.04, Florida Statutes, is amended to read:

1308 507.04 Required insurance coverages; liability limitations;
1309 valuation coverage.—

1310 (1) LIABILITY INSURANCE.—

1311 (b) A mover that operates two or fewer vehicles, in lieu of
1312 maintaining the liability insurance coverage required under
1313 paragraph (a), ~~may, and each moving broker must,~~ maintain one of
1314 the following alternative coverages:

1315 1. A performance bond in the amount of \$25,000, for which
1316 the surety of the bond must be a surety company authorized to
1317 conduct business in this state; or

1318 2. A certificate of deposit in a Florida banking
1319 institution in the amount of \$25,000.

1320

1321 The original bond or certificate of deposit must be filed with
1322 the department and must designate the department as the sole
1323 beneficiary. The department must use the bond or certificate of
1324 deposit exclusively for the payment of claims to consumers who
1325 are injured by the fraud, misrepresentation, breach of contract,
1326 misfeasance, malfeasance, or financial failure of the mover ~~or~~
1327 ~~moving broker~~ or by a violation of this chapter by the mover ~~or~~
1328 ~~broker~~. Liability for these injuries may be determined in an
1329 administrative proceeding of the department or through a civil
1330 action in a court of competent jurisdiction. However, claims
1331 against the bond or certificate of deposit must ~~only~~ be paid, in
1332 amounts not to exceed the determined liability for these



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1333 injuries, only by order of the department in an administrative
1334 proceeding. The bond or certificate of deposit is subject to
1335 successive claims, but the aggregate amount of these claims may
1336 not exceed the amount of the bond or certificate of deposit.

1337 Section 28. Subsections (7) and (8) are added to section
1338 507.07, Florida Statutes, to read:

1339 507.07 Violations.—It is a violation of this chapter to:

1340 (7) Conduct business as a moving broker, advertise to
1341 engage in the business of a moving broker, or offer to perform a
1342 move through a subcontract or agreement with a mover who is not
1343 registered with the department under this part.

1344 (8) Conduct business as a mover, advertise to engage in the
1345 business of moving, or offer to perform a move through a
1346 subcontract or agreement with a moving broker who is not
1347 registered with the department pursuant to the provisions on
1348 this part.

1349 Section 29. Paragraph (c) of subsection (1) of section
1350 525.01, Florida Statutes, is amended to read:

1351 525.01 Gasoline and oil to be inspected.—

1352 (1) For the purpose of this chapter:

1353 (c) "Alternative fuel" means:

1354 1. Methanol, denatured ethanol, or other alcohols;

1355 2. Mixtures of gasoline or other fuels with methanol,
1356 denatured ethanol, or other alcohols ~~Mixtures containing 85~~
1357 ~~percent or more by volume of methanol, denatured ethanol, or~~
1358 ~~other alcohols with gasoline or other fuels, or such other~~
1359 ~~percentage, but not less than 70 percent, as determined by the~~
1360 ~~department by rule, to provide for requirements relating to cold~~
1361 ~~start, safety, or vehicle functions;~~



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- 1362 3. Hydrogen;
1363 4. Coal-derived liquid fuels; and
1364 5. Fuels, other than alcohol, derived from biological
1365 materials.

1366 Section 30. Subsections (2) through (4) of section 525.09,
1367 Florida Statutes, are repealed.

1368 Section 31. Section 525.10, Florida Statutes, is amended to
1369 read:

1370 525.10 ~~Moneys to be paid into State Treasury;~~ Payment of
1371 expenses. ~~All moneys payable under this chapter shall be payable~~
1372 ~~to the department and shall be paid by it into the State~~
1373 ~~Treasury monthly to be deposited into the General Inspection~~
1374 ~~Trust Fund.~~ All expenses incurred in the enforcement of this
1375 chapter and other inspection laws of this state for which fees
1376 or taxes are collected, including acquiring equipment and other
1377 property, shall be paid from the General Inspection Trust Fund.
1378 No money may ~~shall~~ be paid to an ~~any~~ inspector or employee
1379 created under this chapter except from the funds collected from
1380 the administration of this chapter.

1381 Section 32. Present subsections (3) and (4) of section
1382 525.16, Florida Statutes, are renumbered as subsections (4) and
1383 (5), respectively, and a new subsection (3) is added to that
1384 section, to read:

1385 525.16 Administrative fine; penalties; prosecution of cases
1386 by state attorney.—

1387 (3) Entities that sell, offer for sale, distribute, or
1388 offer for distribution petroleum or alternative fuels shall
1389 ensure that their activities result in petroleum fuels that meet
1390 all requirements and standards adopted under s 525.14. A



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1391 terminal supplier, wholesaler, or blender licensed under chapter
1392 206 is not liable for injuries or damages resulting from the
1393 subsequent blending of petroleum or alternative fuels occurring
1394 after the transfer of ownership of such fuels from the terminal
1395 supplier, wholesaler, or blender if the petroleum or alternative
1396 fuels used to make the petroleum fuel at issue met the standards
1397 and requirements adopted by rule of the department under s.
1398 525.14 while under ownership of the terminal supplier,
1399 wholesaler, or blender.

1400 Section 33. Present subsection (7) of section 526.141,
1401 Florida Statutes, is renumbered as subsection (8), and a new
1402 subsection (7) is added to that section, to read:

1403 526.141 Self-service gasoline stations; attendants;
1404 regulations.—

1405 (7) A refiner, terminal supplier, wholesaler, or retailer
1406 is not liable for damages caused by the use of incompatible
1407 motor fuel dispensed at a retail site if:

1408 (a) The incompatible fuel meets the standards adopted under
1409 s. 525.14;

1410 (b) The incompatible fuel is selected by the purchaser; and

1411 (c) The retail dispenser from which the incompatible fuel
1412 is dispensed was properly labeled with regard to the
1413 incompatible fuel pursuant to labeling requirements adopted
1414 under s. 525.14.

1415 Section 34. Subsection (20) is added to section 527.01,
1416 Florida Statutes, to read:

1417 527.01 Definitions.—As used in this chapter:

1418 (20) "License year" means the period from either September
1419 1 through the following August 31, or April 1 through the



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1420 following March 31, depending upon the type of license.

1421 Section 35. Subsections (1) and (3) and paragraphs (a) and
1422 (c) of subsection (5) of section 527.0201, Florida Statutes, are
1423 amended to read:

1424 527.0201 Qualifiers; master qualifiers; examinations.-

1425 (1) In addition to the requirements of s. 527.02, a ~~any~~
1426 person applying for a license to engage in the activities of a
1427 pipeline system operator, category I liquefied petroleum gas
1428 dealer, category II liquefied petroleum gas dispenser, category
1429 IV liquefied petroleum gas dispenser and recreational vehicle
1430 servicer, category V liquefied petroleum gases dealer for
1431 industrial uses only, LP gas installer, specialty installer,
1432 requalifier ~~requalification~~ of cylinders, or fabricator,
1433 repairer, and tester of vehicles and cargo tanks must prove
1434 competency by passing a written examination administered by the
1435 department or its agent with a grade of at least 75 percent in
1436 each area tested ~~or above~~. Each applicant for examination shall
1437 submit a \$20 nonrefundable fee. The department shall by rule
1438 specify the general areas of competency to be covered by each
1439 examination and the relative weight to be assigned in grading
1440 each area tested.

1441 (3) Qualifier cards issued to category I liquefied
1442 petroleum gas dealers and liquefied petroleum gas installers
1443 ~~shall~~ expire 3 years after the date of issuance. All category I
1444 liquefied petroleum gas dealer qualifiers and liquefied
1445 petroleum gas installer qualifiers holding a valid qualifier
1446 card upon the effective date of this act ~~shall~~ retain their
1447 qualifier status until July 1, 2003, and may sit for the master
1448 qualifier examination at any time during that time period. All



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1449 such category I liquefied petroleum gas dealer qualifiers and
1450 liquefied petroleum gas installer qualifiers may renew their
1451 qualification on or before July 1, 2003, upon application to the
1452 department, payment of a \$20 renewal fee, and documentation of
1453 the completion of a minimum of 16 ~~12~~ hours approved continuing
1454 education courses, as defined by department rule, during the
1455 previous 3-year period. Applications for renewal must be made 30
1456 calendar days before ~~prior to~~ expiration. Persons failing to
1457 renew before ~~prior to~~ the expiration date must reapply and take
1458 a qualifier competency examination in order to reestablish
1459 category I liquefied petroleum gas dealer qualifier and
1460 liquefied petroleum gas installer qualifier status. If a
1461 category I liquefied petroleum gas qualifier or liquefied
1462 petroleum gas installer qualifier becomes a master qualifier at
1463 any time during the effective date of the qualifier card, the
1464 card remains ~~shall remain~~ in effect until expiration of the
1465 master qualifier certification.

1466 (5) In addition to all other licensing requirements, each
1467 category I liquefied petroleum gas dealer and liquefied
1468 petroleum gas installer must, at the time of application for
1469 licensure, identify to the department one master qualifier who
1470 is a full-time employee at the licensed location. The master
1471 qualifier must ~~This person shall~~ be a manager, owner, or
1472 otherwise primarily responsible for overseeing the operations of
1473 the licensed location and must provide documentation to the
1474 department as provided by rule. The master qualifier requirement
1475 is ~~shall be~~ in addition to the requirements of subsection (1).

1476 (a) In order to apply for certification as a master
1477 qualifier, each applicant must be a category I liquefied



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1478 petroleum gas dealer qualifier or liquefied petroleum gas
1479 installer qualifier, must be employed by a licensed category I
1480 liquefied petroleum gas dealer, liquefied petroleum gas
1481 installer, or applicant for such license, must provide
1482 documentation of a minimum of 1 year's work experience in the
1483 gas industry, and must pass a master qualifier competency
1484 examination. Master qualifier examinations shall be based on
1485 Florida's laws, rules, and adopted codes governing liquefied
1486 petroleum gas safety, general industry safety standards, and
1487 administrative procedures. The applicant must pass the
1488 examination ~~must be successfully completed by the applicant~~ with
1489 a grade of at least 75 percent ~~or more~~. Each applicant for
1490 master qualifier status shall submit to the department a
1491 nonrefundable \$30 examination fee before ~~prior to~~ the
1492 examination.

1493 (c) Master qualifier status expires ~~shall expire~~ 3 years
1494 after the date of issuance of the certificate and may be renewed
1495 by submission to the department of documentation of completion
1496 of at least 16 ~~12~~ hours of approved continuing education courses
1497 during the 3-year period; proof of employment with a licensed
1498 category I liquefied petroleum gas dealer, liquefied petroleum
1499 gas installer, or applicant; and a \$30 certificate renewal fee.
1500 The department shall define, by rule, approved courses of
1501 continuing education.

1502 Section 36. Section 527.03, Florida Statutes, is amended to
1503 read:

1504 527.03 Annual renewal of license.—All licenses required
1505 under this chapter shall be renewed annually subject to the
1506 license fees prescribed in s. 527.02. With the exception of the



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1507 Category III Liquefied Petroleum Gas Cylinder Exchange Operator
1508 license and the Dealer in Appliances and Equipment for Use of
1509 Liquefied Petroleum Gas license, all licenses shall be renewed
1510 for the period beginning September 1 and ~~shall~~ expire on the
1511 following August 31 unless sooner suspended, revoked, or
1512 otherwise terminated. All Category III Liquefied Petroleum Gas
1513 Cylinder Exchange Operator licenses and Dealer in Appliances and
1514 Equipment for Use of Liquefied Petroleum Gas licenses shall be
1515 renewed for the period beginning April 1 and expire on the
1516 following March 31 unless sooner suspended, revoked, or
1517 otherwise terminated. A Any license allowed to expire becomes ~~on~~
1518 ~~August 31 shall become~~ inoperative because of failure to renew.
1519 The fee for restoration of a license is equal to the original
1520 license fee and must be paid before the licensee may resume
1521 operations.

1522 Section 37. Subsection (3) of section 531.415, Florida
1523 Statutes, is amended to read:

1524 531.415 Fees.—

1525 (3) ~~Any petroleum product taxed under s. 525.09 and any~~
1526 Petroleum equipment that is used to measure petroleum fuel, as
1527 defined in s. 525.01, and owned by a person licensed pursuant to
1528 chapter 206 is exempt from the fees established in this section.

1529 Section 38. Subsection (3) of section 531.61, Florida
1530 Statutes, is amended to read:

1531 531.61 Exemptions from permit requirement.—Commercial
1532 weights or measures instruments or devices are exempt from the
1533 permit requirements of ss. 531.60-531.66 if:

1534 (3) The device is used exclusively for measuring aviation
1535 fuel or petroleum products inspected ~~taxed~~ under chapter 525 s-



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1536 ~~525.09.~~

1537 Section 39. Section 40 of chapter 2009-66, Laws of Florida,
1538 is amended to read:

1539 Section 40. Sections 531.60, 531.61, 531.62, 531.63,
1540 531.64, 531.65, and 531.66, Florida Statutes, as created by this
1541 act, shall expire July 1, 2020 ~~2014~~.

1542 Section 40. Paragraph (c) of subsection (5) of section
1543 539.001, Florida Statutes, is amended to read:

1544 539.001 The Florida Pawnbroking Act.—

1545 (5) APPLICATION FOR LICENSE.—

1546 (c) Each initial application for a license must be
1547 accompanied by a complete set of fingerprints taken by an
1548 authorized law enforcement officer or a fingerprinting service
1549 provider approved by the Department of Law Enforcement, \$300 for
1550 the first year's license fee, and the actual cost to the agency
1551 for fingerprint analysis for each person subject to the
1552 eligibility requirements. The agency shall submit the
1553 fingerprints to the Department of Law Enforcement for state
1554 processing, and the Department of Law Enforcement shall forward
1555 the fingerprints to the Federal Bureau of Investigation for a
1556 national criminal history check. These fees and costs are not
1557 refundable.

1558 Section 41. Subsection (1) of section 559.802, Florida
1559 Statutes, is amended to read:

1560 559.802 Franchises; exemption.—

1561 (1) The sale of a franchise is exempt from this part if:

1562 (a) The franchise meets the definition of that term as
1563 defined by the Federal Trade Commission regulations entitled,
1564 "Disclosure Requirements and Prohibitions Concerning Franchising



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1565 and Business Opportunity Ventures," as set forth in 16 C.F.R.
1566 ss. 436.1 et seq.; and

1567 (b) Before offering for sale or selling a franchise to be
1568 located in this state or to a resident of this state, the
1569 franchisor files a notice with the department stating that the
1570 franchisor is in substantial compliance with the requirements of
1571 the Federal Trade Commission rule, and pays a fee in an amount
1572 set by the department, not exceeding \$100. This notice shall be
1573 filed on a form promulgated by the department.

1574 Section 42. Section 559.803, Florida Statutes, is amended
1575 to read:

1576 559.803 Disclosure statement.—At least 3 working days prior
1577 to the time the purchaser signs a business opportunity contract,
1578 or at least 3 working days prior to the receipt of any
1579 consideration by the seller, whichever occurs first, the seller
1580 must provide the prospective purchaser a written document, the
1581 cover sheet of which is entitled in at least 12-point boldfaced
1582 capital letters "DISCLOSURES REQUIRED BY FLORIDA LAW." Under
1583 this title shall appear the following statement in at least 10-
1584 point type: "The State of Florida has not reviewed and does not
1585 approve, recommend, endorse, or sponsor any business
1586 opportunity. The information contained in this disclosure has
1587 not been verified by the state. If you have any questions about
1588 this investment, see an attorney before you sign a contract or
1589 agreement." Nothing except the title and required statement
1590 shall appear on the cover sheet. Immediately following the cover
1591 sheet, the seller must provide an index page that briefly lists
1592 the contents of the disclosure document as required in this
1593 section and any pages on which the prospective purchaser can



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1594 find each required disclosure. At the top of the index page, the
1595 following statement must appear in at least 10-point type: "The
1596 State of Florida requires sellers of business opportunities to
1597 disclose certain information to prospective purchasers. This
1598 index is provided to help you locate this information." If the
1599 index contains other information not required by this section,
1600 the seller shall place a designation beside each of the
1601 disclosures required by this section and provide an explanation
1602 of the designation at the end of the statement at the top of the
1603 index page. The disclosure document shall contain the following
1604 information:

1605 (1) The name of the seller; whether the seller is doing
1606 business as an individual, partnership, corporation, or other
1607 business entity; the names under which the seller has done
1608 business; and the name of any parent or affiliated company that
1609 will engage in business transactions with the purchasers or who
1610 takes responsibility for statements made by the seller.

1611 (2) The names, addresses, and titles of the seller's
1612 officers, directors, trustees, general partners, general
1613 managers, and principal executives and of any other persons
1614 charged with the responsibility for the seller's business
1615 activities relating to the sale of business opportunities.

1616 (3) The length of time the seller has:

1617 (a) Sold business opportunities; or

1618 (b) Sold business opportunities involving the products,
1619 equipment, supplies, or services currently being offered to the
1620 purchaser.

1621 (4) A full and detailed description of the actual services
1622 that the business opportunity seller undertakes to perform for



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1623 the purchaser.

1624 (5) A copy of a current (not older than 13 months)
1625 financial statement of the seller, updated to reflect material
1626 changes in the seller's financial condition.

1627 (6) If training is promised by the seller, a complete
1628 description of the training, the length of the training, and the
1629 cost or incidental expenses of that training, which cost or
1630 expense the purchaser will be required to incur.

1631 (7) If the seller promises services to be performed in
1632 connection with the placement of the equipment, product, or
1633 supplies at a location, the full nature of those services as
1634 well as the nature of the agreements to be made with the owners
1635 or managers of the location where the purchaser's equipment,
1636 product, or supplies will be placed.

1637 (8) If the business opportunity seller is required to
1638 secure a bond, guaranteed letter of credit, or certificate of
1639 deposit pursuant to s. 559.807, either of the following
1640 statements:

1641 (a) "As required by Florida law, the seller has secured a
1642 bond issued by, a surety company authorized to do business
1643 in this state. Before signing a contract to purchase this
1644 business opportunity, you should confirm the bond's status with
1645 the surety company."; or

1646 (b) "As required by Florida law, the seller has established
1647 a guaranteed letter of credit or certificate of deposit
1648 ...(number of account)... with ...(name and address of bank or
1649 savings institution).... Before signing a contract to purchase
1650 this business opportunity, you should confirm with the bank or
1651 savings institution the current status of the guaranteed letter



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1652 of credit or certificate of deposit.”

1653 (9) The following statement: “If the seller fails to
1654 deliver the product, equipment, or supplies necessary to begin
1655 substantial operation of the business within 45 days of the
1656 delivery date stated in your contract, you may notify the seller
1657 in writing and cancel your contract.”

1658 (10) If the seller makes any statement concerning sales or
1659 earnings or a range of sales or earnings that may be made
1660 through this business opportunity, a statement disclosing:

1661 (a) The total number of purchasers of business
1662 opportunities involving the product, equipment, supplies, or
1663 services being offered who have actually achieved sales of or
1664 received earnings in the amount or range specified within 3
1665 years prior to the date of the disclosure statement.

1666 (b) The total number of purchasers of business
1667 opportunities involving the product, equipment, supplies, or
1668 services being offered within 3 years prior to the date of the
1669 disclosure statement.

1670 (11) (a) The total number of persons who purchased the
1671 business opportunity being offered by the seller within the past
1672 3 years.

1673 (b) The names, addresses, and telephone numbers of the 10
1674 persons who previously purchased the business opportunity from
1675 the seller and who are geographically closest to the potential
1676 purchaser.

1677 (12) A statement disclosing who, if any, of the persons
1678 listed in subsections (1) and (2):

1679 (a) Has, at any time during the previous 10 fiscal years,
1680 regardless of adjudication, been convicted of, or found guilty



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1681 of, or pled guilty or nolo contendere to, or has been
1682 incarcerated within the last 10 years as a result of having
1683 previously been convicted of, or found guilty of, or pled guilty
1684 or nolo contendere to, a felony or a crime involving fraud,
1685 theft, larceny, violation of any franchise or business
1686 opportunity law or unfair or deceptive practices law,
1687 embezzlement, fraudulent conversion, misappropriation of
1688 property, or restraint of trade.

1689 (b) Has, at any time during the previous 7 fiscal years,
1690 been held liable in a civil action resulting in a final judgment
1691 or has settled out of court any civil action or is a party to
1692 any civil action involving allegations of fraud (including
1693 violation of any franchise or business opportunity law or unfair
1694 or deceptive practices law), embezzlement, fraudulent
1695 conversion, misappropriation of property, or restraint of trade
1696 or any civil action which was brought by a present or former
1697 franchisee or franchisees and which involves or involved the
1698 franchise relationship. However, only material individual civil
1699 actions need be so listed pursuant to this paragraph, including
1700 any group of civil actions which, irrespective of the
1701 materiality of any single such action, in the aggregate is
1702 material.

1703 (c) Is subject to any currently effective state or federal
1704 agency or court injunctive or restrictive order, or has been
1705 subject to any administrative action in which an order by a
1706 governmental agency was rendered, or is a party to a proceeding
1707 currently pending in which such order is sought, relating to or
1708 affecting business opportunities activities or the business
1709 opportunity seller-purchaser relationship or involving fraud



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1710 (including violation of any franchise or business opportunity
1711 law or unfair or deceptive practices law), embezzlement,
1712 fraudulent conversion, misappropriation of property, or
1713 restraint of trade.

1714

1715 Such statement shall set forth the identity and location of the
1716 court or agency; the date of conviction, judgment, or decision;
1717 the penalty imposed; the damages assessed; the terms of
1718 settlement or the terms of the order; and the date, nature, and
1719 issuer of each such order or ruling. A business opportunity
1720 seller may include a summary opinion of counsel as to any
1721 pending litigation, but only if counsel's consent to the use of
1722 such opinion is included in the disclosure statement.

1723 (13) A statement disclosing who, if any, of the persons
1724 listed in subsections (1) and (2) at any time during the
1725 previous 7 fiscal years has:

1726 (a) Filed in bankruptcy.

1727 (b) Been adjudged bankrupt.

1728 (c) Been reorganized due to insolvency.

1729 (d) Been a principal, director, executive officer, or
1730 partner of any other person that has so filed or was so adjudged
1731 or reorganized during or within 1 year after the period that
1732 such person held such position in relation to such other person.
1733 If so, the name and location of the person having so filed or
1734 having been so adjudged or reorganized, the date thereof, and
1735 any other material facts relating thereto shall be set forth.

1736 (14) A copy of the business opportunity contract ~~which~~ the
1737 seller uses as a matter of course and which is to be presented
1738 to the purchaser at closing.



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1740 ~~Should any seller of business opportunities prepare a disclosure~~
1741 ~~statement pursuant to 16 C.F.R. ss. 436.1 et seq., a Trade~~
1742 ~~Regulation Rule of the Federal Trade Commission regarding~~
1743 ~~Disclosure Requirements and Prohibitions Concerning Franchising~~
1744 ~~and Business Opportunity Ventures, the seller may file that~~
1745 ~~disclosure statement in lieu of the document required pursuant~~
1746 ~~to this section. Should the seller be required pursuant to 16~~
1747 ~~C.F.R. to prepare any other documents to be presented to the~~
1748 ~~prospective purchaser, those documents shall also be filed with~~
1749 ~~the department.~~

1750 Section 43. Section 559.805, Florida Statutes, is repealed.

1751 Section 44. Subsection (2) of section 559.807, Florida
1752 Statutes, is repealed.

1753 Section 45. Present subsections (3) through (7) of section
1754 559.813, Florida Statutes, are redesignated as subsections (2)
1755 through (6), respectively, and present subsections (2), (5), and
1756 (8) of that section are amended, to read:

1757 559.813 Remedies; enforcement.—

1758 ~~(2) (a) The department may enter an order imposing one or~~
1759 ~~more of the penalties set forth in paragraph (b) if the~~
1760 ~~department finds that a seller or any of the seller's principal~~
1761 ~~officers or agents:~~

1762 1. ~~Violated or is operating in violation of any of the~~
1763 ~~provisions of this part or of the rules adopted or orders issued~~
1764 ~~thereunder;~~

1765 2. ~~Made a material false statement in any application,~~
1766 ~~document, or record required to be submitted or retained under~~
1767 ~~this part;~~



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1768 ~~3. Refused or failed, after notice, to produce any document~~
1769 ~~or record or disclose any information required to be produced or~~
1770 ~~disclosed under this part or the rules of the department;~~

1771 ~~4. Made a material false statement in response to any~~
1772 ~~request or investigation by the department, the Department of~~
1773 ~~Legal Affairs, or the state attorney; or~~

1774 ~~5. Has intentionally defrauded the public through dishonest~~
1775 ~~or deceptive means.~~

1776 ~~(b) Upon a finding as set forth in paragraph (a), the~~
1777 ~~department may enter an order doing one or more of the~~
1778 ~~following:~~

1779 ~~1. Issuing a notice of noncompliance pursuant to s.~~
1780 ~~120.695.~~

1781 ~~2. Imposing an administrative fine not to exceed \$5,000 per~~
1782 ~~violation for each act which constitutes a violation of this~~
1783 ~~part or a rule or order.~~

1784 ~~3. Directing that the seller or its principal officers or~~
1785 ~~agents cease and desist specified activities.~~

1786 ~~4. Refusing to issue or revoking or suspending an~~
1787 ~~advertisement identification number.~~

1788 ~~5. Placing the registrant on probation for a period of~~
1789 ~~time, subject to such conditions as the department may specify.~~

1790 ~~(c) The administrative proceedings which could result in~~
1791 ~~the entry of an order imposing any of the penalties specified in~~
1792 ~~paragraph (b) shall be conducted in accordance with chapter 120.~~

1793 ~~(4) (5) The Department of Legal Affairs, the Department of~~
1794 ~~Agriculture and Consumer Services, or the state attorney, if a~~
1795 ~~violation of this part occurs in her or his judicial circuit, is~~
1796 ~~are the enforcing authority ~~authorities~~ for purposes of this~~



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1797 part, and ~~they~~ may bring civil actions in circuit court for
1798 temporary or permanent injunctive relief and may seek other
1799 appropriate civil relief, including, but not limited to, a civil
1800 penalty not to exceed \$5,000 for each violation, restitution and
1801 damages for injured purchasers of business opportunities, and
1802 court costs and reasonable attorney ~~attorney's~~ fees.

1803 ~~(8) The department has the authority to adopt rules~~
1804 ~~pursuant to chapter 120 to implement this part.~~

1805 Section 46. Section 559.815, Florida Statutes, is amended
1806 to read:

1807 559.815 Penalties.—A ~~Any person who fails to file with the~~
1808 ~~department as required by s. 559.805 or who~~ commits an act
1809 described in s. 559.809 is guilty of a felony of the third
1810 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1811 775.084.

1812 Section 47. Subsection (1) of section 559.9221, Florida
1813 Statutes, is amended to read:

1814 559.9221 Motor Vehicle Repair Advisory Council.—The Motor
1815 Vehicle Repair Advisory Council is created to advise and assist
1816 the department in carrying out this part.

1817 (1) The membership of the council may not exceed 9 ~~11~~
1818 members appointed by the Commissioner of Agriculture.

1819 (a) Six ~~Eight~~ industry members of the council must be
1820 chosen from individuals already engaged in the motor vehicle
1821 repair business who are eligible to be registered under this
1822 part. The professional members of this council must be licensed
1823 under this part. The commissioner shall select one industry
1824 member from each of the following categories:

1825 1. Independent automotive mechanics shops.



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1826 2. Franchise or company-owned automotive mechanics shops.

1827 3. Automotive Independent ~~automotive~~ collision shops.

1828 4. ~~Franchise or company-owned automotive collision shops.~~

1829 4.5. Tire dealers ~~Independent tire dealer.~~

1830 6. ~~Franchise or company-owned tire dealer.~~

1831 5.7. Independent motor vehicle dealers ~~dealer~~ licensed

1832 under s. 320.27.

1833 6.8. Franchise motor vehicle dealers ~~dealer~~ licensed under

1834 s. 320.27.

1835 (b) One member of the council may be chosen from persons
1836 already engaged in motor vehicle repair service.

1837 (c) Two consumer members of the council must be residents
1838 of this state and may ~~must~~ not be connected with the motor
1839 vehicle repair business.

1840 (d) As terms of the members expire, the commissioner shall
1841 appoint successors for terms of 4 years. Members ~~shall~~ serve
1842 from the time of their appointment until their successors are
1843 appointed.

1844 Section 48. Paragraphs (a) and (b) of subsection (9) of
1845 section 616.242, Florida Statutes, are amended to read:

1846 616.242 Safety standards for amusement rides.—

1847 (9) INSURANCE REQUIREMENTS.—

1848 (a) An owner may not operate an amusement ride unless the
1849 owner has in effect, at all times of operation, an insurance
1850 ~~meeting the following requirements:~~

1851 1. ~~An~~ insurance policy in an amount of not less than \$1
1852 million per occurrence, \$1 million in the aggregate, which
1853 insures the owner of the amusement ride against liability for
1854 injury to persons arising out of the use of the amusement ride. ~~+~~



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~~or~~
~~2. A bond in a like amount; however, the aggregate~~
~~liability of the surety under the bond may not exceed the face~~
~~amount thereof.~~
(b) The policy ~~or bond~~ must be procured from an insurer ~~or~~
~~surety~~ that is licensed to transact business in this state or
that is approved as a surplus lines insurer.
Section 49. Subsection (9) is added to section 721.20,
Florida Statutes, to read:
721.20 Licensing requirements; suspension or revocation of
license; exceptions to applicability; collection of advance fees
for listings unlawful.-
(9) A person who meets the definition of a commercial
telephone seller or salesperson as defined in s. 501.603 must be
licensed under part IV of chapter 501 before doing business in
this state under this chapter.
Section 50. This act shall take effect July 1, 2013.