

By the Committee on Commerce and Tourism; and Senator Stargel

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1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; transferring, redesignating, and
4 amending s. 525.09(1), F.S.; transferring the
5 collection of the motor fuel inspection fee from the
6 Department of Agriculture and Consumer Services to the
7 Department of Revenue; amending s. 206.45, F.S.;
8 providing for the collection and distribution of the
9 inspection fee on motor fuel; amending s. 493.6101,
10 F.S.; revising the definition of the term
11 "repossession"; amending s. 493.6113, F.S.; requiring
12 licensees to submit proof of recertification training
13 to the Department of Agriculture and Consumer
14 Services; providing that failure to submit proof of
15 firearm recertification training will result in
16 license suspension and nonrenewal; amending s.
17 493.6116, F.S.; removing a provision that prohibits
18 firearm licensees from sponsoring certain interns;
19 requiring interns to conduct regulated duties within
20 the state; amending s. 493.6118, F.S.; providing
21 additional grounds for disciplinary action against
22 firearm licensees; providing criminal penalties for
23 providing fraudulent training certifications;
24 conforming a cross-reference; amending s. 493.6120,
25 F.S.; providing an exception to a penalty provision;
26 amending s. 493.6121, F.S.; conforming a cross-
27 reference; amending s. 496.405, F.S.; revising
28 procedures and requirements with respect to the
29 submission and processing of registration statements

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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;
57 amending s. 496.419, F.S.; providing that certain
58 violations constitute an immediate public threat and

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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
86 throughout the period of licensure; amending s.
87 501.615, F.S.; revising the criteria for certain

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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. 527.01, F.S.;
110 providing a definition for the term "license year" as
111 it relates to the sale of petroleum gas; amending s.
112 527.0201, F.S.; revising examination requirements for
113 applicants seeking certain licenses; revising
114 continuing education requirements for specified
115 qualifiers; amending s. 527.03, F.S.; revising the
116 renewal procedure for certain licenses; amending s.

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117 531.415, F.S.; conforming a cross-reference; amending
118 s. 531.61, F.S.; exempting certain commercial weights
119 and measures devices from permit requirements;
120 conforming a cross-reference; amending chapter 2009-
121 66, Laws of Florida; extending the expiration date of
122 certain statutes related to commercial weights and
123 measures; amending s. 539.001, F.S.; revising
124 fingerprinting requirements for a pawnbroker license
125 application; amending s. 559.802, F.S.; requiring
126 franchisors to provide notice of the franchise sale on
127 a department promulgated form; amending s. 559.803,
128 F.S.; deleting provisions allowing and requiring
129 sellers of business opportunities to file federal
130 disclosure statements with the department; repealing
131 s. 559.805, F.S., relating to mandatory filings and
132 disclosure of advertisement identification numbers by
133 sellers of business opportunities; repealing s.
134 559.807(2), F.S., relating to bonds or securities for
135 business opportunity sellers; amending s. 559.813,
136 F.S.; deleting a provision authorizing the department
137 to impose specified penalties for certain violations
138 relating to selling business opportunities; abrogating
139 the enforcement and rulemaking authority of the
140 Department of Agriculture and Consumer Services;
141 amending s. 559.815, F.S.; conforming a cross-
142 reference; amending s. 559.9221, F.S.; revising the
143 membership of the Motor Vehicle Repair Advisory
144 Council; amending s. 616.242, F.S.; revising amusement
145 ride insurance coverage requirements; amending s.

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146 721.20, F.S.; requiring specified persons who sell
147 timeshare plans to be licensed as commercial telephone
148 sellers or salespersons under ch. 501, F.S.; providing
149 an effective date.

150

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

152

153 Section 1. Subsection (1) of section 525.09, Florida
154 Statutes, is transferred, redesignated as paragraph (h) of
155 subsection (1) of section 206.41, Florida Statutes, and amended,
156 to read:

157 206.41 State taxes imposed on motor fuel.—

158 (1) The following taxes are imposed on motor fuel under the
159 circumstances described in subsection (6):

160 (h) ~~(1)~~ An additional 0.125 cent per net gallon is levied on
161 all motor fuel for sale or use in this state for the purpose of
162 defraying the expenses incident to inspecting, testing, and
163 analyzing motor fuel ~~petroleum fuels~~ in this state, ~~there shall~~
164 ~~be paid to the department a charge of one-eighth cent per gallon~~
165 ~~on all gasoline, kerosene (except when used as aviation turbine~~
166 ~~fuel), and #1 fuel oil for sale or use in this state. This~~
167 ~~inspection fee shall be imposed in the same manner as the motor~~
168 ~~fuel tax pursuant to s. 206.41. Payment shall be made on or~~
169 ~~before the 25th day of each month.~~

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

172 206.45 Payment of tax into State Treasury.—

173 (4) The department shall pay all moneys collected pursuant
174 to s. 206.41(1)(h) into the State Treasury for monthly

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175 distribution into the General Inspection Trust Fund.

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

178 493.6101 Definitions.—

179 (22) "Repossession" means the recovery of a motor vehicle
180 as defined under s. 320.01(1), a mobile home as defined in s.
181 320.01(2), a motorboat as defined under s. 327.02, an aircraft
182 as defined in s. 330.27(1), a personal watercraft as defined in
183 s. 327.02, an all-terrain vehicle as defined in s. 316.2074,
184 farm equipment as defined under s. 686.402, or industrial
185 equipment, by an individual who is authorized by the legal
186 owner, lienholder, or lessor to recover, or to collect money
187 payment in lieu of recovery of, such property that was ~~which has~~
188 ~~been~~ sold or leased under a security agreement that contains a
189 repossession clause. As used in this subsection, the term
190 "industrial equipment" includes, but is not limited to,
191 tractors, road rollers, cranes, forklifts, backhoes, and
192 bulldozers. The term "industrial equipment" also includes other
193 vehicles that are propelled by power other than muscular power
194 and that are used in the manufacture of goods or used in the
195 provision of services. A repossession is complete when a
196 licensed recovery agent is in control, custody, and possession
197 of such repossessed property. Property that is being repossessed
198 is considered to be in the control, custody, and possession of a
199 licensed recovery agent if the vehicle or other equipment being
200 repossessed has been secured in preparation for transport from
201 the site of the recovery by means of having been attached to, or
202 placed on, the towing or other transport vehicle, or if the
203 vehicle or equipment being repossessed is being operated or

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204 about to be operated by a licensed recovery agent.

205 Section 4. Paragraph (b) of subsection (3) of section
206 493.6113, Florida Statutes, is amended to read:

207 493.6113 Renewal application for licensure.—

208 (3) Each licensee is responsible for renewing his or her
209 license on or before its expiration by filing with the
210 department an application for renewal accompanied by payment of
211 the prescribed license fee.

212 (b) Each Class "G" licensee shall additionally submit proof
213 that he or she has received during each year of the license
214 period a minimum of 4 hours of firearms recertification training
215 taught by a Class "K" licensee and has complied with such other
216 health and training requirements which the department may adopt
217 by rule. Proof of completion of recertification training must be
218 submitted to the department upon completion of that training. If
219 the documentation of completion of recertification training is
220 not submitted by the end of the first year of the license
221 period, the individual's license shall be automatically
222 suspended until proof of such training is submitted to the
223 department. If the documentation of completion of
224 recertification training is not submitted by the end of the
225 second year of the license period, the license may not be
226 renewed unless ~~If proof of a minimum of 4 hours of annual~~
227 ~~firearms recertification training cannot be provided,~~ the
228 renewal applicant completes ~~shall complete~~ the minimum number of
229 hours of range and classroom training required at the time of
230 initial licensure. The department may waive the foregoing
231 firearms training requirement if:

232 1. The applicant provides proof that he or she is currently

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233 certified as a law enforcement officer or correctional officer
234 under the Criminal Justice Standards and Training Commission and
235 has completed law enforcement firearms requalification training
236 annually during the previous 2 years of the licensure period.

237 2. The applicant provides proof that he or she is currently
238 certified as a federal law enforcement officer and has received
239 law enforcement firearms training administered by a federal law
240 enforcement agency annually during the previous 2 years of the
241 licensure period.

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

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

248 493.6116 Sponsorship of interns.—

249 (2) An internship may not commence until a licensee submits
250 ~~the sponsor has submitted~~ to the department a ~~the~~ notice of
251 intent to sponsor. Such notice shall be on a form provided by
252 the department.

253 (3) An internship is intended to serve as a period of
254 learning ~~process~~. Licensees who sponsor interns ~~Sponsors~~ shall
255 provide ~~assume a training status by providing~~ direction to and
256 maintain control of interns as part of this learning process.
257 Sponsors ~~may~~ ~~shall only sponsor interns whose place of business~~
258 ~~is within a 50-mile distance of the sponsor's place of business~~
259 ~~and shall~~ not allow interns to operate independently of ~~such~~
260 direction and control, or require interns to perform activities
261 that ~~which~~ do not enhance the intern's qualification for

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262 licensure. Interns shall perform regulated duties within the
263 geographic boundaries of this state during the period of
264 internship.

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

267 Section 6. Present subsections (1) and (4) of section
268 493.6118, Florida Statutes, are amended, present subsections (2)
269 through (7) of that section are redesignated as subsections (3)
270 through (8), respectively, and a new subsection (2) is added to
271 that section, to read:

272 493.6118 Grounds for disciplinary action.—

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

278 (a) Fraud or willful misrepresentation in applying for or
279 obtaining a license.

280 (b) Use of a ~~any~~ fictitious or assumed name by an agency
281 unless the agency has department approval and qualifies under s.
282 865.09.

283 (c) Being found guilty of or entering a plea of guilty or
284 nolo contendere to, regardless of adjudication, or being
285 convicted of a crime that directly relates to the business for
286 which the license is held or sought. A plea of nolo contendere
287 creates ~~shall create~~ a rebuttable presumption of guilt to the
288 underlying criminal charges, and the department shall allow the
289 individual being disciplined or denied an application for a
290 license to present any mitigating circumstances surrounding his

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291 or her plea.

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

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

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

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

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

306 (i) Impersonating, or permitting or aiding and abetting an
307 employee to impersonate, a law enforcement officer or an
308 employee of the state, the United States, or a ~~any~~ political
309 subdivision thereof by identifying himself or herself as a
310 federal, state, county, or municipal law enforcement officer or
311 official representative, by wearing a uniform or presenting or
312 displaying a badge or credentials that would cause a reasonable
313 person to believe that he or she is a law enforcement officer or
314 that he or she has official authority, by displaying ~~any~~
315 flashing or warning vehicular lights other than amber colored,
316 or by committing an ~~any~~ act that is intended to falsely convey
317 official status.

318 (j) Commission of an act of violence or the use of force on
319 a ~~any~~ person except in the lawful protection of one's self or

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320 another from physical harm.

321 (k) Knowingly violating, advising, encouraging, or
322 assisting the violation of a any statute, court order, ~~capias~~,
323 warrant, injunction, or cease and desist order, in the course of
324 business regulated under this chapter.

325 (l) Soliciting business for an attorney in return for
326 compensation.

327 (m) Transferring or attempting to transfer a license issued
328 pursuant to this chapter.

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

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

338 (p) Failure of a any partner, principal corporate officer,
339 or licensee to have his or her identification card in his or her
340 possession while on duty.

341 (q) Failure of a any licensee to have his or her license in
342 his or her possession while on duty, as specified in s.
343 493.6111(1).

344 (r) Failure or refusal by a sponsor to certify a biannual
345 written report on an intern or to certify completion or
346 termination of an internship to the department within 15 working
347 days.

348 (s) Failure to report to the department a any person whom

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349 the licensee knows to be in violation of this chapter or the
350 rules of the department.

351 (t) Violating any provision of this chapter.

352 (u) For a Class "G" licensee, failing to complete
353 recertification training required to carry a firearm while
354 performing regulated duties.

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

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

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

364 1. Recovering a motor vehicle, mobile home, motorboat,
365 aircraft, personal watercraft, all-terrain vehicle, farm
366 equipment, or industrial equipment that has been sold under a
367 conditional sales agreement or under the terms of a chattel
368 mortgage before authorization has been received from the legal
369 owner or mortgagee.

370 2. Charging for expenses not actually incurred in
371 connection with the recovery, transportation, storage, or
372 disposal of repossessed property or personal property obtained
373 in a repossession.

374 3. Using ~~any~~ repossessed property or personal property
375 obtained in a repossession for the personal benefit of a
376 licensee or an officer, director, partner, manager, or employee
377 of a licensee.

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378 4. Selling property recovered under the provisions of this
379 chapter, except with written authorization from the legal owner
380 or the mortgagee thereof.

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

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

388 7. Failing to deliver to the client a negotiable instrument
389 that is payable to the client, within 10 working days after
390 receipt of such instrument.

391 8. Falsifying, altering, or failing to maintain ~~any~~
392 required inventory or records regarding disposal of personal
393 property contained in or on repossessed property pursuant to s.
394 493.6404(1).

395 9. Carrying a ~~any~~ weapon or firearm when he or she is on
396 private property and performing duties under his or her license
397 whether or not he or she is licensed pursuant to s. 790.06.

398 10. Soliciting from the legal owner the recovery of
399 property subject to repossession after such property has been
400 seen or located on public or private property if the amount
401 charged or requested for such recovery is more than the amount
402 normally charged for such a recovery.

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

405 (2) It is unlawful for a person to knowingly possess,
406 issue, cause to be issued, sell, submit, or offer a fraudulent

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407 training certificate, proficiency form, or other official
408 document that declares an applicant has successfully completed a
409 course of training required for licensure under chapter 493 if
410 that person knows or reasonably should know that the
411 certificate, form, or document is fraudulent. A violation of
412 this section is a felony of the third degree, punishable as
413 provided in s. 775.082, s. 775.083, or s. 775.084.

414 (5)~~(4)~~ Notwithstanding the provisions of paragraph (1) (c)
415 and subsection (3) ~~(2)~~:

416 (a) If the applicant or licensee has been convicted of a
417 felony, the department shall deny the application or revoke the
418 license unless and until civil rights have been restored by the
419 State of Florida or by a state acceptable to Florida and a
420 period of 10 years has expired since final release from
421 supervision.

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

425 (c) If the applicant or licensee has been found guilty of,
426 entered a plea of guilty to, or entered a plea of nolo
427 contendere to a felony and adjudication of guilt is withheld,
428 the department shall deny the application or revoke the license
429 until a period of 3 years has expired since final release from
430 supervision.

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

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436 (e) The grounds for discipline or denial cited in this
437 subsection apply ~~shall be applied~~ to a ~~any~~ disqualifying
438 criminal history regardless of the date of commission of the
439 underlying criminal charge. Such provisions are ~~shall be~~ applied
440 retroactively and prospectively.

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

443 493.6120 Violations; penalty.—

444 (1) Any person who violates any provision of this chapter
445 except ss. 493.6118(2) and ~~s.~~ 493.6405 commits a misdemeanor of
446 the first degree, punishable as provided in s. 775.082 or s.
447 775.083.

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

450 493.6121 Enforcement; investigation.—

451 (3) The department has ~~shall have~~ the authority to
452 investigate a ~~any~~ licensed or unlicensed person, firm, company,
453 partnership, or corporation when such person, firm, company,
454 partnership, or corporation is advertising as providing or is
455 engaged in performing services that ~~which~~ require licensure
456 under this chapter or when a licensee is engaged in activities
457 that ~~which~~ do not comply with or are prohibited by this chapter;
458 and the department has ~~shall have~~ the authority to issue an
459 order to cease and desist the further conduct of such
460 activities, or seek an injunction, or take other appropriate
461 action pursuant to s. 493.6118(3) (a) ~~493.6118(2) (a)~~ or (c).

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

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465 496.405 Registration statements by charitable organizations
466 and sponsors.—

467 (1)

468 (b) ~~Any~~ Changes in the information submitted on the initial
469 registration statement or the last renewal statement must be
470 updated annually on a renewal statement provided by the
471 department on or before the date that marks one year after the
472 date the department approved the initial registration statement
473 as provided in this section. The department shall annually
474 provide a renewal statement to each registrant by mail or by
475 electronic mail at least 30 ~~60~~ days before the renewal date.

476 (2) The initial registration statement must be submitted on
477 a form prescribed by the department, signed ~~under oath~~ by an
478 authorized official ~~the treasurer or chief fiscal officer~~ of the
479 charitable organization or sponsor who shall certify that the
480 registration statement is true and correct, and include the
481 following information or material:

482 (a) A copy of the financial report or Internal Revenue
483 Service Form 990 and all attached schedules, ~~Schedule A~~ or
484 Internal Revenue Service Form 990-EZ and Schedule O, required
485 under s. 496.407 for the immediately preceding fiscal year. A
486 newly organized charitable organization or sponsor with no
487 financial history must file a budget for the current fiscal
488 year.

489 (b) The name of the charitable organization or sponsor, the
490 purpose for which it is organized, the name under which it
491 intends to solicit contributions, and the purpose or purposes
492 for which the contributions to be solicited will be used.

493 (c) The name of the individuals or officers who are in

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494 charge of ~~any~~ solicitation activities.

495 (d) A statement of whether:

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

498 2. The charitable organization or sponsor or any of its
499 officers, directors, trustees, or principal salaried executive
500 personnel have been enjoined in any jurisdiction from soliciting
501 contributions or have been found to have engaged in unlawful
502 practices in the solicitation of contributions or administration
503 of charitable assets;

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

508 4. The charitable organization or sponsor has voluntarily
509 entered into an assurance of voluntary compliance in any
510 jurisdiction or agreement similar to that set forth in s.
511 496.420, together with a copy of the ~~that~~ agreement.

512 5. The charitable organization or sponsor or any of its
513 officers, directors, trustees, or employees, regardless of
514 adjudication, has been convicted of, or found guilty of, or pled
515 guilty or nolo contendere to, or has been incarcerated within
516 the last 10 years as a result of having previously been
517 convicted of, or found guilty of, or pled guilty or nolo
518 contendere to:~~;~~

519 a. A ~~Any felony or any crime involving fraud, theft,~~
520 ~~larceny, embezzlement, fraudulent conversion, misappropriation~~
521 ~~of property, or any crime arising from the conduct of a~~
522 ~~solicitation for a charitable organization or sponsor within the~~

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523 last 10 years and, if so, the name of such person, the nature of
524 the offense, the date of the offense, the court having
525 jurisdiction in the case, the date of conviction or other
526 disposition, and the disposition of the offense.

527 b. A crime involving fraud, theft, larceny, embezzlement,
528 fraudulent conversion, misappropriation of property, or a crime
529 enumerated in this section or resulting from acts committed
530 while involved in the solicitation of contributions within the
531 last 10 years and, if so, the name of such person, the nature of
532 the offense, the date of the offense, the court having
533 jurisdiction in the case, the date of conviction or other
534 disposition, and the disposition of the offense.

535 6. The charitable organization or sponsor or any of its
536 officers, directors, trustees, or employees has been enjoined
537 from violating a ~~any~~ law relating to a charitable solicitation,
538 and, if so, the name of such person, the date of the injunction,
539 and the court issuing the injunction.

540 (e) The names, street addresses, and telephone numbers of a
541 ~~any~~ professional solicitor, professional fundraising consultant,
542 and commercial co-venturer who is acting or has agreed to act on
543 behalf of the charitable organization or sponsor, together with
544 a statement setting forth the specific terms of the arrangements
545 for salaries, bonuses, commissions, expenses, or other
546 remunerations to be paid the fundraising consultant and
547 professional solicitor.

548 (f) With initial registration only, a statement showing
549 when and where the organization was established and the tax-
550 exempt status of the organization together with a copy of the
551 ~~any~~ federal tax exemption determination letter. If the

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552 charitable organization or sponsor has not received a federal
553 tax exemption determination letter at the time of initial
554 registration, a copy of such determination must be filed with
555 the department within 30 days after receipt of the determination
556 by the charitable organization or sponsor. If the organization
557 is subsequently notified by the Internal Revenue Service of a
558 ~~any~~ challenge to its continued entitlement to federal tax
559 exemption, the charitable organization or sponsor shall notify
560 the department of this fact within 30 days after receipt.

561 (g) The following information must be filed with the
562 initial registration statement and must be updated when a ~~any~~
563 change occurs in the information that was previously filed with
564 the initial registration statement:

565 1. The principal street address and telephone number of the
566 organization and the street address and telephone numbers of ~~any~~
567 offices in this state or, if the charitable organization or
568 sponsor does not maintain an office in this state, the name,
569 street address, and telephone number of the person who ~~that~~ has
570 custody of its financial records. The parent organization that
571 files a consolidated registration statement on behalf of its
572 chapters, branches, or affiliates must additionally provide the
573 street addresses and telephone numbers of all such locations in
574 this state.

575 2. The names and street addresses of the officers,
576 directors, trustees, and the principal salaried executive
577 personnel.

578 3. The date when the charitable organization's or sponsor's
579 fiscal year ends.

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

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581 5. The names, street addresses, and telephone numbers of
582 the individuals or officers who have final responsibility for
583 the custody of the contributions and who will be responsible for
584 the final distribution of the contributions.

585 (7) The department must examine each initial registration
586 statement or annual renewal statement and the supporting
587 documents filed by a charitable organization or sponsor and
588 shall determine whether the registration requirements are
589 satisfied. Within 15 ~~10~~ working days after its receipt of a
590 statement, the department must examine the statement, notify the
591 applicant of ~~any~~ apparent errors or omissions, and request ~~any~~
592 additional information the department is allowed by law to
593 require. Failure to correct an error or omission or to supply
594 additional information is not grounds for denial of the initial
595 registration or annual renewal statement unless the department
596 has notified the applicant within the 15 ~~10~~-working-day period.
597 The department must approve or deny each statement, or must
598 notify the applicant that the activity for which she or he seeks
599 registration is exempt from the registration requirement, within
600 15 ~~10~~ working days after receipt of the initial registration or
601 annual renewal statement or the requested additional information
602 or correction of errors or omissions. A ~~Any~~ statement that is
603 not approved or denied within 15 ~~10~~ working days after receipt
604 of the requested additional information or correction of errors
605 or omissions is approved. Within 7 working days after receipt of
606 a notification that the registration requirements are not
607 satisfied, the charitable organization or sponsor may request a
608 hearing. The hearing must be held within 7 working days after
609 receipt of the request, and the ~~any~~ recommended order, if one is

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610 issued, must be rendered within 3 working days of the hearing.
611 The final order must then be issued within 2 working days after
612 the recommended order. If a recommended order is not issued, the
613 final order must be issued within 5 working days after the
614 hearing. The proceedings must be conducted in accordance with
615 chapter 120, except that the time limits and provisions set
616 forth in this subsection prevail to the extent of any conflict.

617 Section 10. Section 496.406, Florida Statutes, is amended
618 to read:

619 496.406 Exemption from registration. ~~The following~~
620 ~~charitable organizations and sponsors are exempt from the~~
621 ~~requirements of s. 496.405:~~

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

624 (a) A person who is soliciting for a named individual,
625 provided that all the contributions collected without ~~any~~
626 deductions ~~whatsoever~~ are turned over to the beneficiary for her
627 or his use and provided that the person has complied with the
628 requirements of s. 496.413.

629 (b) ~~(2)~~ A charitable organization or sponsor that ~~which~~
630 limits solicitation of contributions to the membership of the
631 charitable organization or sponsor. For the purposes of this
632 paragraph, the term "membership" does not include those persons
633 who are granted a membership upon making a contribution as a
634 result of a solicitation.

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

638 (d) Charitable organizations or sponsors that have less

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639 than \$25,000 in total revenue during a fiscal year, if the
640 fundraising activities of such organization or sponsor are
641 carried on by volunteers, members, or officers who are not
642 compensated and if no part of the assets or income of such
643 organization or sponsor inures to the benefit of or is paid to
644 an officer or member of such organization, sponsor, professional
645 fundraising consultant, professional solicitor, or commercial
646 co-venturer. If a charitable organization or sponsor that has
647 less than \$25,000 in total revenue during a fiscal year acquires
648 total revenue in excess of that amount, the charitable
649 organization or sponsor must register with the department as
650 required by s. 496.405 within 30 days after the date the revenue
651 reaches \$25,000.

652 (2) Before soliciting contributions, each charitable
653 organization or sponsor under paragraph (1) (d) claiming to be
654 exempt from the registration requirements specified in s.
655 496.405 shall submit annually to the department, on forms
656 prescribed by the department:

657 (a) The name, address, and phone number of the charitable
658 organization or sponsor, the name under which it intends to
659 solicit contributions, the purpose for which it is organized,
660 and the purpose or purposes for which the solicited
661 contributions will be used.

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

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

664 (d) The names, street addresses, and telephone numbers of
665 the individuals or officers who have final responsibility for
666 the custody of the contributions and who will be responsible for
667 the final distribution of the contributions.

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668 (e) A financial statement of support, revenue, and expenses
669 and a statement of functional expenses which must include, but
670 need not be limited to, expenses in the following categories:
671 program, management and general, and fundraising. In lieu of the
672 financial statement, a charitable organization or sponsor may
673 submit a copy of its Internal Revenue Service Form 990 with
674 attached schedules or 990-EZ with Schedule O.

675 (3) A charitable organization or sponsor claiming to be
676 exempt from the registration requirements of this chapter shall
677 submit such information that the department may request to
678 substantiate an exemption under this section. A charitable
679 organization or sponsor that fails to submit evidence
680 satisfactory to the department is not exempt from the
681 requirements of this chapter. In any proceeding, the burden of
682 proving an exemption is upon the organization or sponsor
683 claiming the exemption.

684 (4) Exemption from the registration requirements of s.
685 496.405 does not limit the applicability of other provisions of
686 this section to a charitable organization or sponsor.

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

689 496.407 Financial report.—

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

695 Section 12. Subsections (2), (3), and (6) of section
696 496.409, Florida Statutes, are amended to read:

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697 496.409 Registration and duties of professional fundraising
698 consultant.—

699 (2) Applications for registration or renewal of
700 registration must be submitted on a form prescribed by the
701 department, signed by an authorized official of the professional
702 fundraising consultant who shall certify that the report is true
703 and correct ~~under oath~~, and must include the following
704 information:

705 (a) The street address and telephone number of the
706 principal place of business of the applicant and a any Florida
707 street addresses if the principal place of business is located
708 outside this state.

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

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

712 (d) Whether any of the owners, directors, officers, or
713 employees of the applicant are related as parent, child, spouse,
714 or sibling to ~~any~~ other directors, officers, owners, or
715 employees of the applicant; to an any officer, director,
716 trustee, or employee of a any charitable organization or sponsor
717 under contract to the applicant; or to a any supplier or vendor
718 providing goods or services to a any charitable organization or
719 sponsor under contract to the applicant.

720 (e) Whether the applicant or any of its officers,
721 directors, trustees, or employees have, within the last 10
722 years, regardless of adjudication, been convicted, or found
723 guilty of, or pled guilty or nolo contendere to, or have been
724 incarcerated within the last 10 years as a result of having
725 previously been convicted of, or found guilty of, or pled guilty

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726 or nolo contendere to, a ~~any~~ felony and, if so, the name of such
727 person, the nature of the offense, the date of the offense, the
728 court having jurisdiction in the case, the date of conviction or
729 other disposition, and the disposition of the offense.

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

744 (g) Whether the applicant or any of its officers,
745 directors, trustees, or employees have been enjoined from
746 violating a ~~any~~ law relating to a charitable solicitation and,
747 if so, the name of such person, the date of the injunction, and
748 the court issuing the injunction.

749 (3) The application for registration must be accompanied by
750 a fee of \$300. A professional fundraising consultant that ~~which~~
751 is a partnership or corporation may register for and pay a
752 single fee on behalf of all of its partners, members, officers,
753 directors, agents, and employees. In that case, the names and
754 street addresses of all the officers, employees, and agents of

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755 the fundraising consultant and all other persons with whom the
756 fundraising consultant has contracted to work under its
757 direction must be listed in the application. Each registration
758 is valid for 1 year ~~or a part of 1 year and expires on March 31~~
759 ~~of each year~~. The registration may be renewed ~~on or before March~~
760 ~~31 of each year~~ for additional 1-year periods upon application
761 to the department and payment of the registration fee.

762 (6) The department shall examine each registration
763 statement and supporting documents filed by a professional
764 fundraising consultant and determine whether the registration
765 requirements are satisfied. If the department determines that
766 the registration requirements are not satisfied, the department
767 must notify the professional fundraising consultant within 15 ~~10~~
768 working days after its receipt of the registration statement;
769 otherwise the registration statement is approved. Within 7
770 working days after receipt of a notification that the
771 registration requirements are not satisfied, the applicant may
772 request a hearing. The hearing must be held within 7 working
773 days after receipt of the request, and the ~~any~~ recommended
774 order, if one is issued, must be rendered within 3 working days
775 after the hearing. The final order must then be issued within 2
776 working days after the recommended order. If there is no
777 recommended order, the final order must be issued within 5
778 working days after the hearing. The proceedings must be
779 conducted in accordance with chapter 120, except that the time
780 limits and provisions set forth in this subsection prevail to
781 the extent of any conflict.

782 Section 13. Subsections (2), (3), (5), and (8) of section
783 496.410, Florida Statutes, are amended to read:

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784 496.410 Registration and duties of professional
785 solicitors.—

786 (2) Applications for registration or renewal of
787 registration must be submitted on a form prescribed by rule of
788 the department, signed by an authorized official of the
789 professional solicitor who shall certify that the report is true
790 and correct ~~under oath~~, and must include the following
791 information:

792 (a) The street address and telephone number of the
793 principal place of business of the applicant and a any Florida
794 street addresses if the principal place of business is located
795 outside this state.

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

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

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

801 (e) A statement as to whether any of the owners, directors,
802 officers, or employees of the applicant are related as parent,
803 spouse, child, or sibling to ~~any~~ other directors, officers,
804 owners, or employees of the applicant; to an any officer,
805 director, trustee, or employee of a any charitable organization
806 or sponsor under contract to the applicant; or to a any supplier
807 or vendor providing goods or services to a any charitable
808 organization or sponsor under contract to the applicant.

809 (f) A statement as to whether the applicant or any of its
810 directors, officers, trustees, persons with a controlling
811 interest in the applicant, or employees or agents involved in
812 solicitation have, within the last 10 years, regardless of

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813 adjudication, been convicted of, or found guilty of, or pled
814 guilty or nolo contendere to, or have been incarcerated within
815 the last 10 years as a result of having previously been
816 convicted of, or found guilty of, or pled guilty or nolo
817 contendere to, a ~~any~~ felony and, if so, the name of such person,
818 the nature of the offense, the date of the offense, the court
819 having jurisdiction in the case, the date of conviction or other
820 disposition, and the disposition of the offense.

821 (g) A statement as to whether the applicant or any of its
822 directors, officers, trustees, persons with a controlling
823 interest in the applicant, or employees or agents involved in
824 solicitation have, regardless of adjudication, been convicted
825 of, or found guilty of, or pled guilty or nolo contendere to, or
826 have been incarcerated within the last 10 years as a result of
827 having previously been convicted of, or found guilty of, or pled
828 guilty or nolo contendere to, a crime within the last 10 years
829 involving fraud, theft, larceny, embezzlement, fraudulent
830 conversion, or misappropriation of property, or a ~~any~~ crime
831 arising from the conduct of a solicitation for a charitable
832 organization or sponsor and, if so, the name of such person, the
833 nature of the offense, the date of the offense, the court having
834 jurisdiction in the case, the date of conviction or other
835 disposition, and the disposition of the offense.

836 (h) A statement as to whether the applicant or any of its
837 directors, officers, trustees, persons with a controlling
838 interest in the applicant, or employees or agents involved in
839 solicitation have been enjoined from violating a ~~any~~ law
840 relating to a charitable solicitation and, if so, the name of
841 such person, the date of the injunction, and the court issuing

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842 the injunction.

843 (i) The names of all persons in charge of ~~any~~ solicitation
844 activity.

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

860 (5) The department must examine each registration statement
861 and supporting documents filed by a professional solicitor. If
862 the department determines that the registration requirements are
863 not satisfied, the department must notify the professional
864 solicitor within 15 ~~10~~ working days after its receipt of the
865 registration statement; otherwise the registration statement is
866 approved. Within 7 working days after receipt of a notification
867 that the registration requirements are not satisfied, the
868 applicant may request a hearing. The hearing must be held within
869 7 working days after receipt of the request, and the any
870 recommended order, if one is issued, must be rendered within 3

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871 working days after the hearing. The final order must then be
872 issued within 2 working days after the recommended order. If
873 there is no recommended order, the final order must be issued
874 within 5 working days after the hearing. The proceedings must be
875 conducted in accordance with chapter 120, except that the time
876 limits and provisions set forth in this subsection prevail to
877 the extent of any conflict.

878 (8) Within 45 ~~90~~ days after a solicitation campaign has
879 been completed and within 45 days after ~~on~~ the anniversary of
880 the commencement of a solicitation campaign lasting more than 1
881 year, the professional solicitor must provide to the charitable
882 organization or sponsor and file with the department a financial
883 report of the campaign, including the gross revenue received and
884 an itemization of all expenses incurred. The report must be
885 completed on a form prescribed by the department and signed by
886 an authorized official of the professional solicitor who shall
887 certify ~~under oath~~ that the report is true and correct.

888 Section 14. Subsections (3) and (6) of section 496.411,
889 Florida Statutes, are amended to read:

890 496.411 Disclosure requirements and duties of charitable
891 organizations and sponsors.—

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

897 (a) Its registration number; and

898 (b) The following statement written in capital letters
899 which must include a toll-free telephone number for the division

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900 which can be used to obtain the registration information:

901
902 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL
903 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF
904 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE
905 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,
906 APPROVAL, OR RECOMMENDATION BY THE STATE."
907

908 ~~If The statement must include a toll-free number for the~~
909 ~~division that can be used to obtain the registration~~
910 ~~information. When the solicitation consists of more than a~~
911 ~~single item one piece, the registration number and statement~~
912 ~~must be displayed prominently in the solicitation materials.~~

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

917 ~~(a) The organization's or sponsor's registration number~~
918 ~~issued by the department under this chapter.~~

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

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

924
925 ~~If the solicitation consists of more than a single item, the~~
926 ~~statement shall be displayed prominently in the solicitation~~
927 ~~materials.~~

928 Section 15. Subsection (2) of section 496.415, Florida

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929 Statutes, is amended to read:

930 496.415 Prohibited acts.—It is unlawful for any person in
931 connection with the planning, conduct, or execution of any
932 solicitation or charitable or sponsor sales promotion to:

933 (2) Knowingly file false, ~~or~~ misleading, or inaccurate
934 information in a any document required to be filed with the
935 department, provided to the public, or in response to a any
936 request or investigation by the department, the Department of
937 Legal Affairs, or the State Attorney.

938 Section 16. Present subsections (4) through (9) of section
939 496.419, Florida Statutes, are redesignated as subsections (5)
940 through (10), respectively, a new subsection (4) is added to
941 that section, and present subsections (4) through (9) are
942 amended, to read:

943 496.419 Powers of the department.—

944 (4) A violation of s. 496.415(3), (5), (6), (10), (12),
945 (13), or (14) constitutes an immediate threat to the public
946 health, safety, and welfare and is sufficient grounds for the
947 department to issue an immediate order to cease and desist all
948 solicitation activities. The order acts as an immediate final
949 order under s. 120.569(2)(n) and shall remain in effect until
950 the violation has been remedied pursuant to this part.

951 (5) ~~(4)~~ The department may enter an order imposing one or
952 more of the penalties set forth in subsection (6) ~~(5)~~ if the
953 department finds that a charitable organization, sponsor,
954 professional fundraising consultant, or professional solicitor,
955 or an agent, servant, or employee thereof has:

956 (a) Violated or is operating in violation of ~~any of the~~
957 ~~provisions of~~ ss. 496.401-496.424 or s. 496.426 or of the rules

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958 adopted or orders issued thereunder;

959 (b) Made a material false statement in an application,
960 statement, or report required to be filed under ss. 496.401-
961 496.424 or s. 496.426;

962 (c) Refused or failed, or any of its principal officers has
963 refused or failed, after notice, to produce the ~~any~~ records of
964 such organization or to disclose ~~any~~ information required to be
965 disclosed under ss. 496.401-496.424 or s. 496.426 or the rules
966 of the department; or

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

970 (6) ~~(5)~~ Upon a finding as set forth in subsection (5) ~~(4)~~,
971 the department may enter an order doing one or more of the
972 following:

973 (a) Issuing a notice of noncompliance pursuant to s.
974 120.695;

975 (b) Issuing a cease and desist order that directs that the
976 person cease and desist specified fundraising activities;

977 (c) Refusing to register or canceling or suspending a
978 registration;

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

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

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

985

986 With respect to a s. 501(c)(3) organization, the penalty imposed

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987 pursuant to this subsection may ~~shall~~ not exceed \$500 per
 988 violation. The penalty is ~~shall be~~ the entire amount per
 989 violation and may ~~is~~ not ~~to~~ be interpreted as a daily penalty.

990 (7) ~~(6)~~ Except as otherwise provided in this section, the
 991 administrative proceedings that could result in the entry of an
 992 order imposing ~~any of~~ the penalties specified in subsection (6)
 993 ~~(5)~~ are governed by chapter 120, except that the applicable
 994 provisions and time limits specified in s. 496.405(7), s.
 995 496.409(6), or s. 496.410(5) apply if the department determines
 996 that a registration should be refused.

997 (8) ~~(7)~~ The department may forward an investigative report
 998 and supporting documentation of an ~~any~~ investigation conducted
 999 pursuant to this section to the Department of Legal Affairs. The
 1000 report must identify proposed ~~any~~ administrative actions or
 1001 actions that are proposed or have been commenced by the
 1002 department in accordance with subsection (5) ~~(4)~~.

1003 (9) ~~(8)~~ The department shall report a ~~any~~ substantiated
 1004 criminal violation of ss. 496.401-496.424 or s. 496.426 to the
 1005 proper prosecuting authority for prompt prosecution.

1006 (10) ~~(9)~~ All fines collected by the department under
 1007 subsection (6) ~~(5)~~ must be paid into the General Inspection
 1008 Trust Fund.

1009 Section 17. Subsections (1), (2), and (4) of section
 1010 501.016, Florida Statutes, are amended to read:

1011 501.016 Health studios; security requirements.—Each health
 1012 studio that sells contracts for health studio services shall
 1013 meet the following requirements:

1014 (1) Each health studio shall maintain for each separate
 1015 business location a bond issued by a surety company admitted to

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1016 do business in this state. The principal sum of the bond must be
1017 \$25,000 ~~shall be \$50,000~~, and the bond, when required, shall be
1018 obtained before a business tax receipt may be issued under
1019 chapter 205. Upon issuance of a business tax receipt, the
1020 licensing authority shall immediately notify the department of
1021 such issuance in a manner established by the department by rule.
1022 The bond shall be in favor of the state for the benefit of any
1023 person injured as a result of a violation of ss. 501.012-
1024 501.019. The aggregate liability of the surety to all persons
1025 for all breaches of the conditions of such ~~the~~ bonds may not
1026 ~~provided herein shall in no event~~ exceed the amount of the bond.
1027 The original surety bond required by this section shall be filed
1028 with the department.

1029 (2) In lieu of maintaining the bond required in subsection
1030 (1), the health studio may furnish to the department:

1031 (a) An irrevocable letter of credit from a a ~~any~~ foreign or
1032 domestic bank in the amount of \$25,000 ~~\$50,000~~; or

1033 (b) A guaranty agreement that ~~which~~ is secured by a
1034 certificate of deposit in the amount of \$25,000 ~~\$50,000~~.

1035
1036 The original letter of credit or certificate of deposit
1037 submitted in lieu of the bond shall be filed with the
1038 department. The department shall determine ~~decide~~ whether the
1039 security furnished in lieu of bond by the health studio is in
1040 compliance with the requirements of this section.

1041 (4) If the health studio furnishes the department with
1042 evidence satisfactory to the department that the aggregate
1043 dollar amount of all current outstanding contracts of the health
1044 studio is less than \$5,000, the department may, at its

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1045 discretion, reduce the principal amount of the surety bond or
1046 other sufficient financial responsibility required in
1047 subsections (1) and (2) to a sum of not less than \$10,000.
1048 However, the health studio shall notify the department ~~at~~ any
1049 time the aggregate dollar amount of such contracts exceeds
1050 \$5,000, ~~the health studio shall so notify the department~~ and
1051 shall thereupon provide the bond or other documentation as
1052 required in subsections (1) and (2). Health studios whose bonds
1053 have been reduced must provide the department with an annually
1054 updated list of members. The department shall raise the security
1055 requirement to \$25,000 for a health studio that fails ~~Failure to~~
1056 ~~file an annual report will result in the department raising the~~
1057 ~~security requirement to \$50,000.~~

1058 Section 18. Subsection (4) of section 501.059, Florida
1059 Statutes, is amended to read:

1060 501.059 Telephone solicitation.—

1061 (4) (a) A ~~No~~ telephone solicitor may not ~~shall~~ make or cause
1062 to be made any unsolicited telephonic sales call to a ~~any~~
1063 residential, mobile, or telephonic paging device telephone
1064 number if the number for that telephone appears in the then-
1065 current quarterly listing published by the department. A ~~Any~~
1066 telephone solicitor or person who offers for sale ~~any~~ consumer
1067 information that ~~which~~ includes residential, mobile, or
1068 telephonic paging device telephone numbers, except directory
1069 assistance and telephone directories sold by telephone companies
1070 and organizations exempt under s. 501(c)(3) or (6) of the
1071 Internal Revenue Code, shall screen and exclude those numbers
1072 that ~~which~~ appear on the division's then-current "no sales
1073 solicitation calls" list. This subsection does not apply to a

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1074 ~~any~~ person licensed pursuant to chapter 475 who calls an actual
1075 or prospective seller or lessor of real property when such call
1076 is made in response to a yard sign or other form of
1077 advertisement placed by the seller or lessor.

1078 (b) A person is in violation of this subsection if the
1079 person initiates an outbound telephonic sales call to a consumer
1080 who has previously communicated to the telephone solicitor that
1081 he or she does not wish to receive an outbound telephone call:

1082 1. Made by or on behalf of the seller whose goods or
1083 services are being offered; or

1084 2. Made by or on behalf of a charitable organization for
1085 which a charitable contribution is being solicited.

1086 Section 19. Subsections (1) and (2) of section 501.603,
1087 Florida Statutes, are amended to read:

1088 501.603 Definitions.—As used in this part, unless the
1089 context otherwise requires, the term:

1090 (1) "Commercial telephone solicitation" means:

1091 (a) An unsolicited telephone call to a person initiated by
1092 a commercial telephone seller or salesperson, or an automated
1093 dialing machine used in accordance with the provisions of s.
1094 501.059(7) for the purpose of inducing the person to purchase or
1095 invest in consumer goods or services;

1096 (b) Other communication with a person where:

1097 1. A gift, award, or prize is offered; or

1098 2. A telephone call response is invited; and

1099 3. The salesperson intends to complete a sale or enter into
1100 an agreement to purchase or invest in consumer goods or services
1101 during the course of the telephone call; or

1102 (c) Other communication with a person which represents a

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1103 price, quality, or availability of consumer goods or services
1104 and which invites a response by telephone or which is followed
1105 by a call to the person by a salesperson.

1106
1107 For purposes of this section, "other communication" means a
1108 written or oral notification or advertisement transmitted
1109 through any means. Also, for purposes of this section, "invites
1110 a response by telephone" does not mean the mere listing or
1111 including of a telephone number in a notification or
1112 advertisement.

1113 (2) "Commercial telephone seller" means a ~~any~~ person who
1114 engages in commercial telephone solicitation on his or her own
1115 behalf or through salespersons, except that a commercial
1116 telephone seller does not include ~~any of the~~ persons or entities
1117 operating under a properly filed and valid affidavit of
1118 exemption pursuant to ~~exempted from this part by~~ s. 501.604. A
1119 commercial telephone seller does not include a salesperson as
1120 defined in subsection (10). A commercial telephone seller
1121 includes, but is not limited to, owners, operators, officers,
1122 directors, partners, or other individuals engaged in the
1123 management activities of a business entity pursuant to this
1124 part.

1125 Section 20. Subsections (4), (7), (10), (14), and (24) of
1126 section 501.604, Florida Statutes, are amended to read:

1127 501.604 Exemptions.—The provisions of this part, except ss.
1128 501.608 and 501.616(6) and (7), do not apply to:

1129 (4) A ~~Any~~ licensed securities, commodities, or investment
1130 broker, dealer, or investment adviser, when soliciting within
1131 the scope of his or her license, or a ~~any~~ licensed associated

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1132 person of a securities, commodities, or investment broker,
1133 dealer, or investment adviser, when soliciting within the scope
1134 of his or her license. As used in this section, "licensed
1135 securities, commodities, or investment broker, dealer, or
1136 investment adviser" means a person subject to license or
1137 registration as such by the Securities and Exchange Commission,
1138 by the Financial Industry Regulatory Authority ~~National~~
1139 ~~Association of Securities Dealers~~ or other self-regulatory
1140 organization as defined by the Securities Exchange Act of 1934,
1141 15 U.S.C. s. 781, or by an official or agency of this or another
1142 state ~~or of any state~~ of the United States. As used in this
1143 section, "licensed associated person of a securities,
1144 commodities, or investment broker, dealer, or investment
1145 adviser" means an ~~any~~ associated person registered or licensed
1146 by the Financial Industry Regulatory Authority ~~National~~
1147 ~~Association of Securities Dealers~~ or other self-regulatory
1148 organization as defined by the Securities Exchange Act of 1934,
1149 15 U.S.C. s. 781, or by an official or agency of this or another
1150 state ~~or of any state~~ of the United States.

1151 (7) A Any supervised financial institution or parent,
1152 subsidiary, or affiliate thereof operating within the scope of
1153 the supervised activity. As used in this section, "supervised
1154 financial institution" means a ~~any~~ commercial bank, trust
1155 company, savings and loan association, mutual savings bank,
1156 credit union, industrial loan company, consumer finance lender,
1157 commercial finance lender, or insurer, provided that the
1158 institution is subject to supervision by an official or agency
1159 of this state, of any state, or of the United States. For the
1160 purposes of this exemption, "affiliate" means a person who

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1161 directly, or indirectly through one or more intermediaries,
1162 controls or is controlled by, or is under common control with, a
1163 supervised financial institution.

1164 (10) A business-to-business sale where:

1165 (a) The commercial telephone seller has been lawfully
1166 operating continuously for at least 3 years under the same
1167 business name and has at least 50 percent of its dollar volume
1168 consisting of repeat sales to existing businesses;

1169 (b) The purchaser business intends to resell or offer for
1170 purposes of advertisement or as a promotional item the property
1171 or goods purchased; or

1172 (c) The purchaser business intends to use the property or
1173 goods purchased in a recycling, reuse, remanufacturing, or
1174 manufacturing process.

1175 (14) A telephone company subject to the provisions of
1176 chapter 364, or affiliate thereof or its agents, or a
1177 telecommunications business that ~~which~~ is regulated by the
1178 Florida Public Service Commission, or a Federal Communications
1179 Commission licensed cellular telephone company or other bona
1180 fide radio telecommunication services provider. For the purposes
1181 of this exemption, "affiliate" means a person who directly, or
1182 indirectly through one or more intermediaries, controls or is
1183 controlled by, or is under common control with, a telephone
1184 company subject to the provisions of chapter 364.

1185 (24) An entity that ~~Any person which~~ has been lawfully
1186 providing telemarketing sales services continuously for at least
1187 5 years under the same ownership and control and that ~~which~~
1188 derives 75 percent of its gross telemarketing sales revenues
1189 from contracts with persons exempted in this section.

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1190 Section 21. Present paragraphs (c) through (h) of
1191 subsection (1) of section 501.607, Florida Statutes, are
1192 redesignated as paragraphs (b) through (g), respectively, and
1193 present paragraph (b) of subsection (1) of that section is
1194 amended, to read:

1195 501.607 Licensure of salespersons.—

1196 (1) An applicant for a license as a salesperson must submit
1197 to the department, in such form as it prescribes, a written
1198 application for a license. The application must set forth the
1199 following information:

1200 ~~(b) Each business or occupation engaged in by the applicant~~
1201 ~~during the 3 years immediately preceding the date of the~~
1202 ~~application, and the location thereof.~~

1203 Section 22. Paragraph (b) of subsection (1) and subsections
1204 (2) and (3) of section 501.608, Florida Statutes, are amended to
1205 read:

1206 501.608 License or affidavit of exemption; occupational
1207 license.—

1208 (1)

1209 (b) A Any commercial telephone seller that claims ~~claiming~~
1210 to be exempt from the act under s. 501.604(2), (3), (5), (6),
1211 (9), (10), (11), (12), (17), (21), (22), (24), or (26) must file
1212 with the department a notarized affidavit of exemption. The
1213 affidavit of exemption must be on forms prescribed by the
1214 department and must require the name of the commercial telephone
1215 seller, the name of the business, and the business address. A
1216 ~~Any commercial telephone seller that maintains~~ ~~maintaining~~ more
1217 than one business may file a single notarized affidavit of
1218 exemption that clearly indicates the location of each place of

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1219 business. If a change of ownership occurs, the commercial
1220 telephone seller must notify the department. At the request of
1221 the department, the commercial telephone seller shall provide
1222 sales scripts, contracts, and other documentation in order to
1223 determine if the affidavit of exemption is appropriate before
1224 accepting such affidavit for filing.

1225 (2) Each licensee or person operating under a valid and
1226 appropriately filed exemption ~~claiming an exemption~~ shall
1227 prominently display his or her license or a copy of his or her
1228 receipt of filing of the affidavit of exemption at each location
1229 where he or she does business. Each licensee or person claiming
1230 an exemption shall make the license or the receipt of filing
1231 ~~copy~~ of the affidavit of exemption available for inspection upon
1232 request by a ~~by any~~ governmental agency ~~upon request~~.

1233 (3) Failure to obtain or display a license or ~~a copy of the~~
1234 receipt of filing of an affidavit of exemption is sufficient
1235 grounds for the department to issue an immediate cease and
1236 desist order, which acts ~~shall act~~ as an immediate final order
1237 under s. 120.569(2)(n). The order shall ~~may~~ remain in effect
1238 until the commercial telephone seller or a person claiming to be
1239 exempt shows the authorities that he or she is properly licensed
1240 or exempt. The department may order the business to cease
1241 operations and shall order the phones to be shut off. Failure of
1242 a salesperson to display a license or the receipt of filing of
1243 an affidavit of exemption may result in the salesperson being
1244 summarily ordered by the department to leave the office until he
1245 or she can produce a license or a receipt of filing of an
1246 affidavit of exemption for the department.

1247 Section 23. Subsection (3) of section 501.611, Florida

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1248 Statutes, is amended to read:

1249 501.611 Security.-

1250 (3) The bond shall be posted with the department and must
1251 remain in force throughout the period of licensure with the
1252 department.

1253 Section 24. Subsection (12) of section 501.615, Florida
1254 Statutes, is amended to read:

1255 501.615 Written contract; cancellation; refund.-

1256 (12) A sale in which the consumer is given a full refund
1257 for the return of undamaged and unused goods or in which a
1258 cancellation of services notice is given to the seller within 7
1259 days after the date of the sale is exempt from the requirements
1260 of subsections (1)-(5). A commercial telephone seller or
1261 salesperson engaged in activity regulated by chapter 721 must
1262 comply with s. 721.205 ~~Exempt from the requirements of~~
1263 ~~subsections (1)-(5) is any sale in which the consumer is given a~~
1264 ~~full refund for the return of undamaged and unused goods or a~~
1265 ~~cancellation of services notice is given to the seller, within 7~~
1266 ~~days after receipt of the goods or services by the consumer, and~~
1267 ~~the seller shall process the refund within 30 days after receipt~~
1268 ~~of the returned merchandise by the consumer.~~

1269 Section 25. Subsection (1) of section 501.617, Florida
1270 Statutes, is amended to read:

1271 501.617 Investigative powers of enforcing authority.-

1272 (1) If, by her or his own inquiries or as a result of
1273 complaints, the enforcing authority has reason to believe that a
1274 person has engaged in, or is engaging in, an act or practice
1275 that violates the provisions of this part, she or he may
1276 administer oaths and affirmations, subpoena witnesses or matter,

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1277 conduct regulatory inspections, and collect evidence. Within 10
1278 days after the service of a subpoena or at any time before the
1279 return date specified therein, whichever is longer, the party
1280 served may file in the circuit court in the county in which she
1281 or he resides or in which she or he transacts business and serve
1282 upon the enforcing authority a petition for an order modifying
1283 or setting aside the subpoena. The petitioner may raise an ~~any~~
1284 objection or privilege that ~~which~~ would be available under this
1285 part or upon service of such subpoena in a civil action. The
1286 subpoena must ~~shall~~ inform the party served of her or his rights
1287 under this subsection.

1288 Section 26. Subsection (10) is added to section 507.03,
1289 Florida Statutes, to read:

1290 507.03 Registration.—

1291 (10) Upon the request of the department, each moving broker
1292 shall provide a complete list of the movers it has contracted or
1293 affiliated with, advertises on behalf of, arranges moves for, or
1294 to which it refers shippers. Such list, at a minimum, must
1295 include the mover's complete name, address, telephone number,
1296 email address, and name of the owner or other principal.

1297 Section 27. Paragraph (b) of subsection (1) of section
1298 507.04, Florida Statutes, is amended to read:

1299 507.04 Required insurance coverages; liability limitations;
1300 valuation coverage.—

1301 (1) LIABILITY INSURANCE.—

1302 (b) A mover that operates two or fewer vehicles, in lieu of
1303 maintaining the liability insurance coverage required under
1304 paragraph (a), ~~may, and each moving broker must,~~ maintain one of
1305 the following alternative coverages:

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1306 1. A performance bond in the amount of \$25,000, for which
1307 the surety of the bond must be a surety company authorized to
1308 conduct business in this state; or

1309 2. A certificate of deposit in a Florida banking
1310 institution in the amount of \$25,000.

1311
1312 The original bond or certificate of deposit must be filed with
1313 the department and must designate the department as the sole
1314 beneficiary. The department must use the bond or certificate of
1315 deposit exclusively for the payment of claims to consumers who
1316 are injured by the fraud, misrepresentation, breach of contract,
1317 misfeasance, malfeasance, or financial failure of the mover ~~or~~
1318 ~~moving broker~~ or by a violation of this chapter by the mover ~~or~~
1319 ~~broker~~. Liability for these injuries may be determined in an
1320 administrative proceeding of the department or through a civil
1321 action in a court of competent jurisdiction. However, claims
1322 against the bond or certificate of deposit must ~~only~~ be paid, in
1323 amounts not to exceed the determined liability for these
1324 injuries, only by order of the department in an administrative
1325 proceeding. The bond or certificate of deposit is subject to
1326 successive claims, but the aggregate amount of these claims may
1327 not exceed the amount of the bond or certificate of deposit.

1328 Section 28. Subsections (7) and (8) are added to section
1329 507.07, Florida Statutes, to read:

1330 507.07 Violations.—It is a violation of this chapter to:

1331 (7) Conduct business as a moving broker, advertise to
1332 engage in the business of a moving broker, or offer to perform a
1333 move through a subcontract or agreement with a mover who is not
1334 registered with the department under this part.

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1335 (8) Conduct business as a mover, advertise to engage in the
1336 business of moving, or offer to perform a move through a
1337 subcontract or agreement with a moving broker who is not
1338 registered with the department pursuant to the provisions on
1339 this part.

1340 Section 29. Paragraph (c) of subsection (1) of section
1341 525.01, Florida Statutes, is amended to read:

1342 525.01 Gasoline and oil to be inspected.—

1343 (1) For the purpose of this chapter:

1344 (c) "Alternative fuel" means:

1345 1. Methanol, denatured ethanol, or other alcohols;

1346 2. Mixtures of gasoline or other fuels with methanol,
1347 denatured ethanol, or other alcohols ~~Mixtures containing 85~~
1348 ~~percent or more by volume of methanol, denatured ethanol, or~~
1349 ~~other alcohols with gasoline or other fuels, or such other~~
1350 ~~percentage, but not less than 70 percent, as determined by the~~
1351 ~~department by rule, to provide for requirements relating to cold~~
1352 ~~start, safety, or vehicle functions;~~

1353 3. Hydrogen;

1354 4. Coal-derived liquid fuels; and

1355 5. Fuels, other than alcohol, derived from biological
1356 materials.

1357 Section 30. Subsections (2) through (4) of section 525.09,
1358 Florida Statutes, are repealed.

1359 Section 31. Section 525.10, Florida Statutes, is amended to
1360 read:

1361 525.10 ~~Moneys to be paid into State Treasury;~~ Payment of
1362 expenses. ~~All moneys payable under this chapter shall be payable~~
1363 ~~to the department and shall be paid by it into the State~~

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1364 ~~Treasury monthly to be deposited into the General Inspection~~
1365 ~~Trust Fund.~~ All expenses incurred in the enforcement of this
1366 chapter and other inspection laws of this state for which fees
1367 or taxes are collected, including acquiring equipment and other
1368 property, shall be paid from the General Inspection Trust Fund.
1369 No money may ~~shall~~ be paid to an ~~any~~ inspector or employee
1370 created under this chapter except from the funds collected from
1371 the administration of this chapter.

1372 Section 32. Subsection (20) is added to section 527.01,
1373 Florida Statutes, to read:

1374 527.01 Definitions.—As used in this chapter:

1375 (20) "License year" means the period from either September
1376 1 through the following August 31, or April 1 through the
1377 following March 31, depending upon the type of license.

1378 Section 33. Subsections (1) and (3) and paragraphs (a) and
1379 (c) of subsection (5) of section 527.0201, Florida Statutes, are
1380 amended to read:

1381 527.0201 Qualifiers; master qualifiers; examinations.—

1382 (1) In addition to the requirements of s. 527.02, a ~~any~~
1383 person applying for a license to engage in the activities of a
1384 pipeline system operator, category I liquefied petroleum gas
1385 dealer, category II liquefied petroleum gas dispenser, category
1386 IV liquefied petroleum gas dispenser and recreational vehicle
1387 servicer, category V liquefied petroleum gases dealer for
1388 industrial uses only, LP gas installer, specialty installer,
1389 requalifier ~~requalification~~ of cylinders, or fabricator,
1390 repairer, and tester of vehicles and cargo tanks must prove
1391 competency by passing a written examination administered by the
1392 department or its agent with a grade of at least 75 percent in

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1393 each area tested ~~or above~~. Each applicant for examination shall
1394 submit a \$20 nonrefundable fee. The department shall by rule
1395 specify the general areas of competency to be covered by each
1396 examination and the relative weight to be assigned in grading
1397 each area tested.

1398 (3) Qualifier cards issued to category I liquefied
1399 petroleum gas dealers and liquefied petroleum gas installers
1400 ~~shall~~ expire 3 years after the date of issuance. All category I
1401 liquefied petroleum gas dealer qualifiers and liquefied
1402 petroleum gas installer qualifiers holding a valid qualifier
1403 card upon the effective date of this act ~~shall~~ retain their
1404 qualifier status until July 1, 2003, and may sit for the master
1405 qualifier examination at any time during that time period. All
1406 such category I liquefied petroleum gas dealer qualifiers and
1407 liquefied petroleum gas installer qualifiers may renew their
1408 qualification on or before July 1, 2003, upon application to the
1409 department, payment of a \$20 renewal fee, and documentation of
1410 the completion of a minimum of 16 ~~12~~ hours approved continuing
1411 education courses, as defined by department rule, during the
1412 previous 3-year period. Applications for renewal must be made 30
1413 calendar days before ~~prior to~~ expiration. Persons failing to
1414 renew before ~~prior to~~ the expiration date must reapply and take
1415 a qualifier competency examination in order to reestablish
1416 category I liquefied petroleum gas dealer qualifier and
1417 liquefied petroleum gas installer qualifier status. If a
1418 category I liquefied petroleum gas qualifier or liquefied
1419 petroleum gas installer qualifier becomes a master qualifier at
1420 any time during the effective date of the qualifier card, the
1421 card remains ~~shall remain~~ in effect until expiration of the

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1422 master qualifier certification.

1423 (5) In addition to all other licensing requirements, each
1424 category I liquefied petroleum gas dealer and liquefied
1425 petroleum gas installer must, at the time of application for
1426 licensure, identify to the department one master qualifier who
1427 is a full-time employee at the licensed location. The master
1428 qualifier must ~~This person shall~~ be a manager, owner, or
1429 otherwise primarily responsible for overseeing the operations of
1430 the licensed location and must provide documentation to the
1431 department as provided by rule. The master qualifier requirement
1432 is shall be in addition to the requirements of subsection (1).

1433 (a) In order to apply for certification as a master
1434 qualifier, each applicant must be a category I liquefied
1435 petroleum gas dealer qualifier or liquefied petroleum gas
1436 installer qualifier, must be employed by a licensed category I
1437 liquefied petroleum gas dealer, liquefied petroleum gas
1438 installer, or applicant for such license, must provide
1439 documentation of a minimum of 1 year's work experience in the
1440 gas industry, and must pass a master qualifier competency
1441 examination. Master qualifier examinations shall be based on
1442 Florida's laws, rules, and adopted codes governing liquefied
1443 petroleum gas safety, general industry safety standards, and
1444 administrative procedures. The applicant must pass the
1445 examination ~~must be successfully completed by the applicant~~ with
1446 a grade of at least 75 percent ~~or more~~. Each applicant for
1447 master qualifier status shall submit to the department a
1448 nonrefundable \$30 examination fee before ~~prior to~~ the
1449 examination.

1450 (c) Master qualifier status expires ~~shall expire~~ 3 years

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1451 after the date of issuance of the certificate and may be renewed
1452 by submission to the department of documentation of completion
1453 of at least 16 ~~12~~ hours of approved continuing education courses
1454 during the 3-year period; proof of employment with a licensed
1455 category I liquefied petroleum gas dealer, liquefied petroleum
1456 gas installer, or applicant; and a \$30 certificate renewal fee.
1457 The department shall define, by rule, approved courses of
1458 continuing education.

1459 Section 34. Section 527.03, Florida Statutes, is amended to
1460 read:

1461 527.03 Annual renewal of license.—All licenses required
1462 under this chapter shall be renewed annually subject to the
1463 license fees prescribed in s. 527.02. With the exception of the
1464 Category III Liquefied Petroleum Gas Cylinder Exchange Operator
1465 license and the Dealer in Appliances and Equipment for Use of
1466 Liquefied Petroleum Gas license, all licenses shall be renewed
1467 for the period beginning September 1 and shall expire on the
1468 following August 31 unless sooner suspended, revoked, or
1469 otherwise terminated. All Category III Liquefied Petroleum Gas
1470 Cylinder Exchange Operator licenses and Dealer in Appliances and
1471 Equipment for Use of Liquefied Petroleum Gas licenses shall be
1472 renewed for the period beginning April 1 and expire on the
1473 following March 31 unless sooner suspended, revoked, or
1474 otherwise terminated. A ~~Any~~ license allowed to expire becomes on
1475 ~~August 31 shall become~~ inoperative because of failure to renew.
1476 The fee for restoration of a license is equal to the original
1477 license fee and must be paid before the licensee may resume
1478 operations.

1479 Section 35. Subsection (3) of section 531.415, Florida

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1480 Statutes, is amended to read:

1481 531.415 Fees.—

1482 (3) ~~Any petroleum product taxed under s. 525.09 and any~~
1483 Petroleum equipment that is used to measure petroleum fuel, as
1484 defined in s. 525.01, and owned by a person licensed pursuant to
1485 chapter 206 is exempt from the fees established in this section.

1486 Section 36. Subsection (3) of section 531.61, Florida
1487 Statutes, is amended to read:

1488 531.61 Exemptions from permit requirement.—Commercial
1489 weights or measures instruments or devices are exempt from the
1490 permit requirements of ss. 531.60-531.66 if:

1491 (3) The device is used exclusively for measuring aviation
1492 fuel or petroleum products inspected ~~taxed~~ under chapter 525 s-
1493 ~~525.09.~~

1494 Section 37. Section 40 of chapter 2009-66, Laws of Florida,
1495 is amended to read:

1496 Section 40. Sections 531.60, 531.61, 531.62, 531.63,
1497 531.64, 531.65, and 531.66, Florida Statutes, as created by this
1498 act, shall expire July 1, 2020 ~~2014~~.

1499 Section 38. Paragraph (c) of subsection (5) of section
1500 539.001, Florida Statutes, is amended to read:

1501 539.001 The Florida Pawnbroking Act.—

1502 (5) APPLICATION FOR LICENSE.—

1503 (c) Each initial application for a license must be
1504 accompanied by a complete set of fingerprints taken by an
1505 authorized law enforcement officer or a fingerprinting service
1506 provider approved by the Department of Law Enforcement, \$300 for
1507 the first year's license fee, and the actual cost to the agency
1508 for fingerprint analysis for each person subject to the

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1509 eligibility requirements. The agency shall submit the
1510 fingerprints to the Department of Law Enforcement for state
1511 processing, and the Department of Law Enforcement shall forward
1512 the fingerprints to the Federal Bureau of Investigation for a
1513 national criminal history check. These fees and costs are not
1514 refundable.

1515 Section 39. Subsection (1) of section 559.802, Florida
1516 Statutes, is amended to read:

1517 559.802 Franchises; exemption.—

1518 (1) The sale of a franchise is exempt from this part if:

1519 (a) The franchise meets the definition of that term as
1520 defined by the Federal Trade Commission regulations entitled,
1521 "Disclosure Requirements and Prohibitions Concerning Franchising
1522 and Business Opportunity Ventures," as set forth in 16 C.F.R.
1523 ss. 436.1 et seq.; and

1524 (b) Before offering for sale or selling a franchise to be
1525 located in this state or to a resident of this state, the
1526 franchisor files a notice with the department stating that the
1527 franchisor is in substantial compliance with the requirements of
1528 the Federal Trade Commission rule, and pays a fee in an amount
1529 set by the department, not exceeding \$100. This notice shall be
1530 filed on a form promulgated by the department.

1531 Section 40. Section 559.803, Florida Statutes, is amended
1532 to read:

1533 559.803 Disclosure statement.—At least 3 working days prior
1534 to the time the purchaser signs a business opportunity contract,
1535 or at least 3 working days prior to the receipt of any
1536 consideration by the seller, whichever occurs first, the seller
1537 must provide the prospective purchaser a written document, the

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1538 cover sheet of which is entitled in at least 12-point boldfaced
1539 capital letters "DISCLOSURES REQUIRED BY FLORIDA LAW." Under
1540 this title shall appear the following statement in at least 10-
1541 point type: "The State of Florida has not reviewed and does not
1542 approve, recommend, endorse, or sponsor any business
1543 opportunity. The information contained in this disclosure has
1544 not been verified by the state. If you have any questions about
1545 this investment, see an attorney before you sign a contract or
1546 agreement." Nothing except the title and required statement
1547 shall appear on the cover sheet. Immediately following the cover
1548 sheet, the seller must provide an index page that briefly lists
1549 the contents of the disclosure document as required in this
1550 section and any pages on which the prospective purchaser can
1551 find each required disclosure. At the top of the index page, the
1552 following statement must appear in at least 10-point type: "The
1553 State of Florida requires sellers of business opportunities to
1554 disclose certain information to prospective purchasers. This
1555 index is provided to help you locate this information." If the
1556 index contains other information not required by this section,
1557 the seller shall place a designation beside each of the
1558 disclosures required by this section and provide an explanation
1559 of the designation at the end of the statement at the top of the
1560 index page. The disclosure document shall contain the following
1561 information:

1562 (1) The name of the seller; whether the seller is doing
1563 business as an individual, partnership, corporation, or other
1564 business entity; the names under which the seller has done
1565 business; and the name of any parent or affiliated company that
1566 will engage in business transactions with the purchasers or who

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1567 takes responsibility for statements made by the seller.

1568 (2) The names, addresses, and titles of the seller's
1569 officers, directors, trustees, general partners, general
1570 managers, and principal executives and of any other persons
1571 charged with the responsibility for the seller's business
1572 activities relating to the sale of business opportunities.

1573 (3) The length of time the seller has:

1574 (a) Sold business opportunities; or

1575 (b) Sold business opportunities involving the products,
1576 equipment, supplies, or services currently being offered to the
1577 purchaser.

1578 (4) A full and detailed description of the actual services
1579 that the business opportunity seller undertakes to perform for
1580 the purchaser.

1581 (5) A copy of a current (not older than 13 months)
1582 financial statement of the seller, updated to reflect material
1583 changes in the seller's financial condition.

1584 (6) If training is promised by the seller, a complete
1585 description of the training, the length of the training, and the
1586 cost or incidental expenses of that training, which cost or
1587 expense the purchaser will be required to incur.

1588 (7) If the seller promises services to be performed in
1589 connection with the placement of the equipment, product, or
1590 supplies at a location, the full nature of those services as
1591 well as the nature of the agreements to be made with the owners
1592 or managers of the location where the purchaser's equipment,
1593 product, or supplies will be placed.

1594 (8) If the business opportunity seller is required to
1595 secure a bond, guaranteed letter of credit, or certificate of

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1596 deposit pursuant to s. 559.807, either of the following
1597 statements:

1598 (a) "As required by Florida law, the seller has secured a
1599 bond issued by, a surety company authorized to do business
1600 in this state. Before signing a contract to purchase this
1601 business opportunity, you should confirm the bond's status with
1602 the surety company."; or

1603 (b) "As required by Florida law, the seller has established
1604 a guaranteed letter of credit or certificate of deposit
1605 . . . (number of account) . . . with . . . (name and address of bank or
1606 savings institution) Before signing a contract to purchase
1607 this business opportunity, you should confirm with the bank or
1608 savings institution the current status of the guaranteed letter
1609 of credit or certificate of deposit."

1610 (9) The following statement: "If the seller fails to
1611 deliver the product, equipment, or supplies necessary to begin
1612 substantial operation of the business within 45 days of the
1613 delivery date stated in your contract, you may notify the seller
1614 in writing and cancel your contract."

1615 (10) If the seller makes any statement concerning sales or
1616 earnings or a range of sales or earnings that may be made
1617 through this business opportunity, a statement disclosing:

1618 (a) The total number of purchasers of business
1619 opportunities involving the product, equipment, supplies, or
1620 services being offered who have actually achieved sales of or
1621 received earnings in the amount or range specified within 3
1622 years prior to the date of the disclosure statement.

1623 (b) The total number of purchasers of business
1624 opportunities involving the product, equipment, supplies, or

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1625 services being offered within 3 years prior to the date of the
1626 disclosure statement.

1627 (11) (a) The total number of persons who purchased the
1628 business opportunity being offered by the seller within the past
1629 3 years.

1630 (b) The names, addresses, and telephone numbers of the 10
1631 persons who previously purchased the business opportunity from
1632 the seller and who are geographically closest to the potential
1633 purchaser.

1634 (12) A statement disclosing who, if any, of the persons
1635 listed in subsections (1) and (2):

1636 (a) Has, at any time during the previous 10 fiscal years,
1637 regardless of adjudication, been convicted of, or found guilty
1638 of, or pled guilty or nolo contendere to, or has been
1639 incarcerated within the last 10 years as a result of having
1640 previously been convicted of, or found guilty of, or pled guilty
1641 or nolo contendere to, a felony or a crime involving fraud,
1642 theft, larceny, violation of any franchise or business
1643 opportunity law or unfair or deceptive practices law,
1644 embezzlement, fraudulent conversion, misappropriation of
1645 property, or restraint of trade.

1646 (b) Has, at any time during the previous 7 fiscal years,
1647 been held liable in a civil action resulting in a final judgment
1648 or has settled out of court any civil action or is a party to
1649 any civil action involving allegations of fraud (including
1650 violation of any franchise or business opportunity law or unfair
1651 or deceptive practices law), embezzlement, fraudulent
1652 conversion, misappropriation of property, or restraint of trade
1653 or any civil action which was brought by a present or former

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1654 franchisee or franchisees and which involves or involved the
1655 franchise relationship. However, only material individual civil
1656 actions need be so listed pursuant to this paragraph, including
1657 any group of civil actions which, irrespective of the
1658 materiality of any single such action, in the aggregate is
1659 material.

1660 (c) Is subject to any currently effective state or federal
1661 agency or court injunctive or restrictive order, or has been
1662 subject to any administrative action in which an order by a
1663 governmental agency was rendered, or is a party to a proceeding
1664 currently pending in which such order is sought, relating to or
1665 affecting business opportunities activities or the business
1666 opportunity seller-purchaser relationship or involving fraud
1667 (including violation of any franchise or business opportunity
1668 law or unfair or deceptive practices law), embezzlement,
1669 fraudulent conversion, misappropriation of property, or
1670 restraint of trade.

1671
1672 Such statement shall set forth the identity and location of the
1673 court or agency; the date of conviction, judgment, or decision;
1674 the penalty imposed; the damages assessed; the terms of
1675 settlement or the terms of the order; and the date, nature, and
1676 issuer of each such order or ruling. A business opportunity
1677 seller may include a summary opinion of counsel as to any
1678 pending litigation, but only if counsel's consent to the use of
1679 such opinion is included in the disclosure statement.

1680 (13) A statement disclosing who, if any, of the persons
1681 listed in subsections (1) and (2) at any time during the
1682 previous 7 fiscal years has:

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- 1683 (a) Filed in bankruptcy.
1684 (b) Been adjudged bankrupt.
1685 (c) Been reorganized due to insolvency.
1686 (d) Been a principal, director, executive officer, or
1687 partner of any other person that has so filed or was so adjudged
1688 or reorganized during or within 1 year after the period that
1689 such person held such position in relation to such other person.
1690 If so, the name and location of the person having so filed or
1691 having been so adjudged or reorganized, the date thereof, and
1692 any other material facts relating thereto shall be set forth.

1693 (14) A copy of the business opportunity contract ~~which~~ the
1694 seller uses as a matter of course and which is to be presented
1695 to the purchaser at closing.

1696
1697 ~~Should any seller of business opportunities prepare a disclosure~~
1698 ~~statement pursuant to 16 C.F.R. ss. 436.1 et seq., a Trade~~
1699 ~~Regulation Rule of the Federal Trade Commission regarding~~
1700 ~~Disclosure Requirements and Prohibitions Concerning Franchising~~
1701 ~~and Business Opportunity Ventures, the seller may file that~~
1702 ~~disclosure statement in lieu of the document required pursuant~~
1703 ~~to this section. Should the seller be required pursuant to 16~~
1704 ~~C.F.R. to prepare any other documents to be presented to the~~
1705 ~~prospective purchaser, those documents shall also be filed with~~
1706 ~~the department.~~

1707 Section 41. Section 559.805, Florida Statutes, is repealed.

1708 Section 42. Subsection (2) of section 559.807, Florida
1709 Statutes, is repealed.

1710 Section 43. Present subsections (3) through (7) of section
1711 559.813, Florida Statutes, are redesignated as subsections (2)

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1712 through (6), respectively, and present subsections (2), (5), and
1713 (8) of that section are amended, to read:

1714 559.813 Remedies; enforcement.—

1715 ~~(2) (a) The department may enter an order imposing one or~~
1716 ~~more of the penalties set forth in paragraph (b) if the~~
1717 ~~department finds that a seller or any of the seller's principal~~
1718 ~~officers or agents:~~

1719 1. ~~Violated or is operating in violation of any of the~~
1720 ~~provisions of this part or of the rules adopted or orders issued~~
1721 ~~thereunder;~~

1722 2. ~~Made a material false statement in any application,~~
1723 ~~document, or record required to be submitted or retained under~~
1724 ~~this part;~~

1725 3. ~~Refused or failed, after notice, to produce any document~~
1726 ~~or record or disclose any information required to be produced or~~
1727 ~~disclosed under this part or the rules of the department;~~

1728 4. ~~Made a material false statement in response to any~~
1729 ~~request or investigation by the department, the Department of~~
1730 ~~Legal Affairs, or the state attorney; or~~

1731 5. ~~Has intentionally defrauded the public through dishonest~~
1732 ~~or deceptive means.~~

1733 ~~(b) Upon a finding as set forth in paragraph (a), the~~
1734 ~~department may enter an order doing one or more of the~~
1735 ~~following:~~

1736 1. ~~Issuing a notice of noncompliance pursuant to s.~~
1737 ~~120.695.~~

1738 2. ~~Imposing an administrative fine not to exceed \$5,000 per~~
1739 ~~violation for each act which constitutes a violation of this~~
1740 ~~part or a rule or order.~~

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1741 ~~3. Directing that the seller or its principal officers or~~
1742 ~~agents cease and desist specified activities.~~

1743 ~~4. Refusing to issue or revoking or suspending an~~
1744 ~~advertisement identification number.~~

1745 ~~5. Placing the registrant on probation for a period of~~
1746 ~~time, subject to such conditions as the department may specify.~~

1747 ~~(c) The administrative proceedings which could result in~~
1748 ~~the entry of an order imposing any of the penalties specified in~~
1749 ~~paragraph (b) shall be conducted in accordance with chapter 120.~~

1750 ~~(4)~~(5) The Department of Legal Affairs, ~~the Department of~~
1751 ~~Agriculture and Consumer Services,~~ or the state attorney, if a
1752 violation of this part occurs in her or his judicial circuit, is
1753 ~~are~~ the enforcing authority ~~authorities~~ for purposes of this
1754 part, and ~~they~~ may bring civil actions in circuit court for
1755 temporary or permanent injunctive relief and may seek other
1756 appropriate civil relief, including, but not limited to, a civil
1757 penalty not to exceed \$5,000 for each violation, restitution and
1758 damages for injured purchasers of business opportunities, and
1759 court costs and reasonable attorney ~~attorney's~~ fees.

1760 ~~(8) The department has the authority to adopt rules~~
1761 ~~pursuant to chapter 120 to implement this part.~~

1762 Section 44. Section 559.815, Florida Statutes, is amended
1763 to read:

1764 559.815 Penalties. ~~A~~ Any person who ~~fails to file with the~~
1765 ~~department as required by s. 559.805 or who~~ commits an act
1766 described in s. 559.809 is guilty of a felony of the third
1767 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1768 775.084.

1769 Section 45. Subsection (1) of section 559.9221, Florida

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1770 Statutes, is amended to read:

1771 559.9221 Motor Vehicle Repair Advisory Council.—The Motor
1772 Vehicle Repair Advisory Council is created to advise and assist
1773 the department in carrying out this part.

1774 (1) The membership of the council may not exceed 9 ~~11~~
1775 members appointed by the Commissioner of Agriculture.

1776 (a) Six ~~Eight~~ industry members of the council must be
1777 chosen from individuals already engaged in the motor vehicle
1778 repair business who are eligible to be registered under this
1779 part. The professional members of this council must be licensed
1780 under this part. The commissioner shall select one industry
1781 member from each of the following categories:

- 1782 1. Independent automotive mechanics shops.
- 1783 2. Franchise or company-owned automotive mechanics shops.
- 1784 3. Automotive Independent ~~automotive~~ collision shops.
- 1785 ~~4. Franchise or company-owned automotive collision shops.~~
- 1786 4.5. Tire dealers ~~Independent tire dealer.~~
- 1787 ~~6. Franchise or company-owned tire dealer.~~
- 1788 5.7. Independent motor vehicle dealers ~~dealer~~ licensed
1789 under s. 320.27.

1790 ~~6.8.~~ Franchise motor vehicle dealers ~~dealer~~ licensed under
1791 s. 320.27.

1792 (b) One member of the council may be chosen from persons
1793 already engaged in motor vehicle repair service.

1794 (c) Two consumer members of the council must be residents
1795 of this state and may ~~must~~ not be connected with the motor
1796 vehicle repair business.

1797 (d) As terms of the members expire, the commissioner shall
1798 appoint successors for terms of 4 years. Members ~~shall~~ serve

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1799 from the time of their appointment until their successors are
1800 appointed.

1801 Section 46. Paragraphs (a) and (b) of subsection (9) of
1802 section 616.242, Florida Statutes, are amended to read:

1803 616.242 Safety standards for amusement rides.—

1804 (9) INSURANCE REQUIREMENTS.—

1805 (a) An owner may not operate an amusement ride unless the
1806 owner has in effect, at all times of operation, an insurance
1807 ~~meeting the following requirements:~~

1808 ~~1. An insurance policy in an amount of not less than \$1~~
1809 ~~million per occurrence, \$1 million in the aggregate, which~~
1810 ~~insures the owner of the amusement ride against liability for~~
1811 ~~injury to persons arising out of the use of the amusement ride.~~
1812 ~~or~~

1813 ~~2. A bond in a like amount; however, the aggregate~~
1814 ~~liability of the surety under the bond may not exceed the face~~
1815 ~~amount thereof.~~

1816 (b) The policy ~~or bond~~ must be procured from an insurer ~~or~~
1817 ~~surety~~ that is licensed to transact business in this state or
1818 that is approved as a surplus lines insurer.

1819 Section 47. Subsection (9) is added to section 721.20,
1820 Florida Statutes, to read:

1821 721.20 Licensing requirements; suspension or revocation of
1822 license; exceptions to applicability; collection of advance fees
1823 for listings unlawful.—

1824 (9) A person who meets the definition of a commercial
1825 telephone seller or salesperson as defined in s. 501.603 must be
1826 licensed under part IV of chapter 501 before doing business in
1827 this state under this chapter.

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Section 48. This act shall take effect July 1, 2013.