

By Senator Sachs

34-01130B-13

20131616\_\_

1                                   A bill to be entitled  
2           An act relating to personal trainers; creating part  
3           XVII of ch. 468, F.S.; creating s. 468.851, F.S.;  
4           defining terms; creating s. 468.8511, F.S.; creating  
5           the Board of Personal Training; providing membership  
6           and terms of the board; providing the location of the  
7           headquarters of the board; creating s. 468.8512, F.S.;  
8           providing for the powers and duties of the Board of  
9           Personal Training; creating s. 468.8513, F.S.;  
10          creating the Florida Fitness Instructors and Trainers  
11          Management Corporation; providing the purpose of the  
12          management corporation; authorizing the management  
13          corporation to hire staff; providing that the waiver  
14          of sovereign immunity for tort actions applies to the  
15          management corporation; providing that the management  
16          corporation is not an agency; providing the duties of  
17          the management corporation; creating s. 468.8514,  
18          F.S.; providing for the duties of the Department of  
19          Health; creating s. 468.8515, F.S.; requiring the  
20          Board of Personal Training to adopt rules to  
21          administer the act; creating s. 468.8516, F.S.;  
22          providing requirements for licensure by examination  
23          for personal trainers; creating s. 468.8517, F.S.;  
24          requiring that the department renew a license under  
25          specified circumstances; requiring that the management  
26          corporation prescribe the requirements for continuing  
27          education; requiring that the continuing education  
28          meet certain criteria; creating s. 468.8518, F.S.;  
29          providing for licensure fees; creating s. 468.8519,

34-01130B-13

20131616\_\_

30 F.S.; prohibiting sexual misconduct in the practice of  
31 personal training; creating s. 468.852, F.S.;  
32 providing penalties for violation of the act;  
33 specifying acts that constitute a violation; creating  
34 s. 468.8521, F.S.; providing criteria for disciplinary  
35 actions; creating s. 468.8522, F.S.; providing for  
36 exemptions; providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Part XVII of chapter 468, Florida Statutes,  
41 consisting of sections 468.851, 468.8511, 468.8512, 468.8513,  
42 468.8514, 468.8515, 468.8516, 468.8517, 468.8518, 468.8519,  
43 468.852, 468.8521, and 468.8522, is created to read:

44 468.851 Definitions.—As used in this part, the term:

45 (1) "Board" means the Board of Personal Training  
46 established under s. 468.8511.

47 (2) "Client" means a person who hires a personal trainer.

48 (3) "Department" means the Department of Health.

49 (4) "Management corporation" means the Florida Fitness  
50 Instructors and Trainers Management Corporation.

51 (5) "Personal trainer" means a person who evaluates a  
52 client's health and physical fitness; develops a personal  
53 exercise plan or program, or core-induced activity, for the  
54 client; and demonstrates, with or without equipment, exercises  
55 designed to improve cardiovascular condition, muscular strength,  
56 flexibility, or weight loss.

57 468.8511 Board of Personal Training.—

58 (1) The Board of Personal Training is created within the

34-01130B-13

20131616\_\_

59 department and shall consist of nine members appointed by the  
60 Governor and confirmed by the Senate.

61 (2) Five members of the board must be personal trainers who  
62 are certified by the Aerobics and Fitness Association of  
63 America, the National Academy of Sports Medicine, the American  
64 Council on Exercise, or their successor organizations. One  
65 member of the board must be a physician licensed under chapter  
66 458 or chapter 459. One member of the board must be a physician  
67 licensed under chapter 460. Two members of the board must be  
68 consumer members, each of whom must be a resident of this state  
69 who has never worked as a personal trainer, who has no financial  
70 interest in the practice of personal training, and who has never  
71 been a licensed health care practitioner as defined in s.  
72 456.001(4).

73 (3) For the purpose of staggering terms, the Governor shall  
74 appoint the initial members of the board as follows:

75 (a) Three members for terms of 2 years each.

76 (b) Three members for terms of 3 years each.

77 (c) Three members for terms of 4 years each.

78 (4) As the terms of the members expire, the Governor shall  
79 appoint successors for terms of 4 years, and such members serve  
80 until their successors are appointed.

81 (5) All provisions of chapter 456 relating to activities of  
82 the board apply.

83 (6) The board shall maintain its official headquarters in  
84 Tallahassee.

85 468.8512 Powers and duties of the board.—The board shall:

86 (1) Establish education and training standards for initial  
87 licensure and renewal of licenses.

34-01130B-13

20131616\_\_

88 (2) Approve educational programs for initial licensure.

89 (3) Approve other equivalent educational programs and  
90 establish procedures for the issuance of credit upon  
91 satisfactory proof of the licensing and testing programs.

92 (4) Establish a code of ethics and standards of practice  
93 and care for personal trainers.

94 468.8513 The Florida Fitness Instructors and Trainers  
95 Management Corporation.—There is created the Florida Fitness  
96 Instructors and Trainers Management Corporation, a nonprofit  
97 corporation to provide administrative and professional services  
98 to the board in accordance with chapter 456 and this part. An  
99 additional nonprofit corporation may not be created to provide  
100 these services to the board. The management corporation may hire  
101 staff as necessary to carry out its functions. Such staff  
102 members are not public employees for the purposes of chapter 110  
103 or chapter 112. Section 768.28 applies to the management  
104 corporation, which is deemed to be a corporation primarily  
105 acting as an instrumentality of the state but which is not an  
106 agency within the meaning of s. 20.03(11). The management  
107 corporation shall:

108 (1) Be a Florida corporation, not for profit, incorporated  
109 under chapter 617.

110 (2) Provide administrative and professional services to the  
111 board in accordance with chapter 456 and this part.

112 (3) Administer and certify continuing education credits.

113 (4) Establish procedures for the issuance of credit upon  
114 satisfactory proof of completion of educational programs.

115 (5) Foster the integrity, ethics, and professionalism of  
116 personal trainers for the state.

34-01130B-13

20131616\_\_

117       (6) Protect the public through the safe, proper, and  
118 prudent provision of personal training services.

119       (7) Govern all continuing education courses for credits of  
120 personal trainers.

121       468.8514 Duties of the department.—The department shall:

122       (1) Issue initial and renewal licenses to qualified  
123 applicants.

124       (2) Revoke or suspend the license of a personal trainer  
125 upon order of the board.

126       (3) Maintain a record of each personal trainer licensed in  
127 the state and the date of licensure and license number.

128       (4) Maintain records of disciplinary action taken against a  
129 personal trainer.

130       468.8515 Rulemaking authority.—The board shall adopt rules  
131 to administer this part conferring duties upon it. Section  
132 456.011(5) applies to the board's activity. The rules must  
133 include, but need not be limited to, the allowable scope of  
134 practice regarding the use of equipment, licensure requirements,  
135 licensure examinations, fees, records, reports to be filed by  
136 licensees, protocols, and other requirements necessary to  
137 regulate the practice of personal training.

138       468.8516 Licensure by examination; requirements.—A person  
139 who is engaged in the act of personal training must be licensed  
140 in this state. Application for a license must be filed with the  
141 department on a form approved by the department. The department  
142 shall license an applicant who meets all of the following  
143 requirements:

144       (1) Has completed the application and remitted the required  
145 fees.

34-01130B-13

20131616\_\_

- 146       (2) Is at least 18 years of age.
- 147       (3) Has a high school diploma or its equivalent.
- 148       (4) Has obtained the required certification from a program  
149 that is accredited by the National Commission for Certifying  
150 Agencies or the Distance Education and Training Council and that  
151 is recognized and approved by the board.
- 152       (5) Has a current certification in cardiovascular pulmonary  
153 resuscitation with an automated external defibrillator from the  
154 American Red Cross or the American Heart Association, or an  
155 equivalent certification as determined by the management  
156 corporation.
- 157       (6) Has passed the licensure examination administered by  
158 the board.
- 159       (7) Is affiliated with and has met the requirements of the  
160 management corporation.
- 161       (8) Is a member in good standing with the board.
- 162       468.8517 Renewal of license; continuing education.-
- 163       (1) The department shall renew a license upon receipt of  
164 the renewal application and fee if the applicant is in  
165 compliance with this part and department rules.
- 166       (2) The management corporation shall prescribe by rule the  
167 requirements for continuing education, which may not exceed 24  
168 hours every 2 years. The criteria for continuing education must  
169 include training from the American Red Cross or the American  
170 Heart Association for certification in cardiovascular pulmonary  
171 resuscitation with an automated external defibrillator or an  
172 equivalent certification as determined by the management  
173 corporation.
- 174       468.8518 Fees.-

34-01130B-13

20131616\_\_

175 (1) The board shall establish by rule fees for the  
176 following purposes:

177 (a) An application fee, not to exceed \$100.

178 (b) An examination fee, not to exceed \$200.

179 (c) An initial licensure fee, not to exceed \$200.

180 (d) A biennial license renewal fee, not to exceed \$200.

181 (e) An inactive license fee, not to exceed \$100.

182 (f) A delinquent application fee, not to exceed \$100.

183 (g) A license reactivation fee, not to exceed \$100.

184 (h) A voluntary inactive license fee, not to exceed \$100.

185 (2) The board shall establish fees at a level, not to  
186 exceed the statutory fee cap, which is adequate to ensure the  
187 continued operation of the regulatory program, but may not set  
188 or maintain fees at a level that results in revenue that  
189 substantially exceeds operating costs.

190 468.8519 Sexual misconduct.—Sexual misconduct by the person  
191 licensed as a personal trainer is prohibited. Sexual misconduct  
192 means to induce or attempt to induce the client to engage, or to  
193 engage or attempt to engage the client, in sexual activity.

194 468.852 Violations and penalties.—A person commits a  
195 misdemeanor of the first degree, punishable as provided under s.  
196 775.082 or s. 775.083, if the person:

197 (1) Practices personal training for compensation without  
198 holding an active license under s. 468.757.

199 (2) Uses or attempts to use a personal trainer license that  
200 has been suspended or revoked.

201 (3) Knows or should have known that an individual whom the  
202 person employs in the practice of personal training is  
203 unlicensed.

34-01130B-13

20131616\_\_

204       (4) Knows or should have known that an unlicensed  
205 individual is using a person's facilities for the practice of  
206 personal training.

207       (5) Obtains or attempts to obtain a personal trainer  
208 license by misleading statements or misrepresentations.

209       (6) Uses the title "personal trainer" without being  
210 licensed under s. 468.8516.

211       468.8521 Disciplinary actions.—

212       (1) The following acts are grounds for denial of a license  
213 or disciplinary action as specified in s. 456.072(2):

214       (a) Failure to include the name and license number of the  
215 personal trainer in advertising or promotional materials,  
216 including, but not limited to, business cards and letterhead,  
217 related to the practice of personal training. Advertising does  
218 not include clothing or novelty items.

219       (b) Incompetency or misconduct in the practice of personal  
220 training.

221       (c) Fraud or deceit in the practice of personal training.

222       (d) Gross negligence or repeated negligence in the practice  
223 of personal training.

224       (e) Inability to practice personal training with reasonable  
225 skill and safety by reason of illness or as a result of a mental  
226 or physical condition.

227       (2) The board may enter an order under s. 456.072(2)  
228 denying licensure or imposing a penalty against an applicant for  
229 licensure or a licensee who is found guilty of violating  
230 subsection (1) or s. 456.072(1).

231       468.8522 Exemptions.—This part does not prevent or  
232 restrict:



34-01130B-13

20131616\_\_

- 233       (1) The professional practice of a licensee of the  
234 department who is acting within the scope of that practice.
- 235       (2) A personal training student acting under the direct  
236 supervision of a licensed personal trainer.
- 237       (3) A person from administering standard first aid  
238 treatment.
- 239       (4) A person from acting within the scope of a license  
240 issued under chapter 548, if the person is acting within the  
241 scope of that license.

242           Section 2. This act shall take effect December 31, 2013.  
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