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1
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 collection
5 of a motor fuel inspection fee from the Department of
6 Agriculture and Consumer Services to the Department of
7 Revenue; amending s. 493.6101, F.S.; revising the
8 definition of the term "repossession"; amending s.
9 493.6113, F.S.; revising firearms recertification
10 training requirements for specified licenses of the
11 private security, private investigative, and
12 repossession industries; amending s. 493.6116, F.S.;
13 deleting a provision prohibiting specified licensees
14 from sponsoring certain interns; requiring interns to
15 perform regulated duties within the state; amending s.
16 493.6118, F.S.; providing additional grounds for
17 disciplinary action against firearm licensees;
18 amending s. 493.6120, F.S.; providing criminal
19 penalties for a person who knowingly obtains a
20 fraudulent document declaring a licensure applicant to
21 have completed specified training; amending s.
22 496.405, F.S.; revising procedures and requirements
23 with respect to the submission and processing of
24 registration statements and renewal statements by
25 charitable organizations and sponsors; amending s.
26 496.406, F.S.; exempting specified organizations and
27 sponsors from filing a registration statement;
28 requiring exempt organizations and sponsors to file



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29 | specified documents; providing for applicability;
30 | amending s. 496.407, F.S.; revising financial
31 | reporting requirements; amending s. 496.409, F.S.;
32 | revising registration procedures and requirements for
33 | professional fundraising consultants; amending s.
34 | 496.410, F.S.; revising registration procedures and
35 | requirements for professional solicitors; amending s.
36 | 496.411, F.S.; revising the information required to be
37 | displayed on specified solicitation materials;
38 | amending s. 496.415, F.S.; revising a provision
39 | prohibiting specified persons from submitting false,
40 | misleading, or inaccurate information related to a
41 | solicitation or a charitable or sponsor sales
42 | promotion; amending s. 496.419, F.S.; revising the
43 | responsibility of the Department of Agriculture and
44 | Consumer Services to report specified criminal
45 | violations; authorizing the department to issue a
46 | cease and desist order for specified violations;
47 | amending s. 501.016, F.S.; revising the amount of a
48 | surety bond, letter of credit, or guaranty agreement
49 | furnished to the department by a health studio;
50 | amending s. 501.059, F.S.; prohibiting a telephone
51 | solicitor from calling certain consumers; amending s.
52 | 501.603, F.S.; conforming a cross-reference; revising
53 | definitions; amending s. 501.604, F.S.; revising
54 | exemptions from specified provisions of the Florida
55 | Telemarketing Act; amending s. 501.607, F.S.; revising
56 | salesperson application requirements; amending s.



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57 | 501.608, F.S.; requiring commercial telephone sellers
58 | seeking an affidavit of exemption to provide the
59 | department with certain information at the
60 | department's request; requiring licensees and exempt
61 | persons to display certain documentation; authorizing
62 | the department to issue a cease and desist order and
63 | to order a salesperson to leave an office if the
64 | salesperson is unable to properly display or produce a
65 | license or a receipt of filing of an affidavit of
66 | exemption; amending s. 501.611, F.S.; providing that a
67 | surety bond filed with the department by a commercial
68 | telephone seller remains in force for a specified
69 | period; amending s. 501.615, F.S.; revising the
70 | contract requirements and restrictions on telephonic
71 | sales by commercial telephone sellers; amending s.
72 | 501.617, F.S.; authorizing an enforcing authority to
73 | conduct regulatory inspections; amending s. 507.03,
74 | F.S.; requiring moving brokers to provide certain
75 | information at the request of the department; amending
76 | s. 507.07, F.S.; prohibiting movers and moving brokers
77 | from entering into certain service contracts with
78 | certain unregistered persons; amending s. 525.01,
79 | F.S.; revising the definition of the term "alternative
80 | fuel"; repealing s. 525.09(2)-(4), F.S., relating to
81 | the payment and applicability of an inspection fee for
82 | testing and analyzing petroleum fuels; amending s.
83 | 525.10, F.S.; deleting a provision requiring certain
84 | moneys to be paid into the State Treasury before being



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85 deposited into a specified trust fund; amending s.
86 525.16, F.S.; requiring entities that sell or
87 distribute certain fuels to meet fuel standards
88 adopted by the department; providing a release of
89 liability for certain entities who supply and blend
90 fuels that meet department standards; amending s.
91 526.141, F.S.; providing that certain entities are not
92 liable for damages resulting from the use of
93 incompatible motor fuels under certain circumstances;
94 amending s. 527.01, F.S.; defining the term "license
95 year" applicable to certain liquefied petroleum gas
96 licenses; amending s. 527.0201, F.S.; revising
97 examination requirements for applicants seeking
98 certain licenses; revising continuing education
99 requirements for specified qualifiers; amending s.
100 527.03, F.S.; revising the requirements and procedure
101 for renewal of liquefied petroleum gas licenses;
102 amending s. 531.415, F.S.; revising a provision
103 exempting certain petroleum equipment from specified
104 fees; amending s. 531.61, F.S.; revising a provision
105 exempting certain devices from permitting
106 requirements; creating s. 531.67, F.S., and repealing
107 s. 40, ch. 2009-66, Laws of Florida, relating to
108 permits for weights and measures instruments or
109 devices, to provide for codification in the Florida
110 Statutes of the expiration of specified provisions and
111 extending the expiration date; amending s. 539.001,
112 F.S.; revising fingerprinting requirements for a



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113 | pawnbroker license application; amending s. 559.802,
114 | F.S.; requiring a specified notice to be filed on a
115 | form adopted by the department; amending s. 559.803,
116 | F.S.; revising the requirements of the mandatory
117 | written disclosure statement provided to purchasers of
118 | business opportunities; repealing s. 559.805, F.S.,
119 | relating to mandatory filings and disclosure of
120 | advertisement identification numbers by sellers of
121 | business opportunities; amending s. 559.807, F.S.;
122 | deleting a provision providing for the use of certain
123 | securities requirements relating to selling business
124 | opportunities; amending s. 559.813, F.S.; deleting a
125 | provision authorizing the department to impose
126 | specified penalties for certain violations relating to
127 | selling business opportunities; deleting a provision
128 | authorizing the department to adopt rules; deleting a
129 | provision naming the department as an enforcing
130 | authority; amending s. 559.815, F.S.; conforming
131 | provisions to changes made by the act; amending s.
132 | 559.9221, F.S.; revising the membership of the Motor
133 | Vehicle Repair Advisory Council; amending s. 616.242,
134 | F.S.; revising amusement ride insurance coverage
135 | requirements; amending s. 721.20, F.S.; requiring
136 | specified persons who sell timeshare plans to be
137 | licensed as commercial telephone sellers or
138 | salespersons under ch. 501, F.S.; providing for
139 | severability; providing an effective date.

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

142

143 Section 1. Subsection (1) of section 525.09, Florida
 144 Statutes, is transferred, redesignated as paragraph (h) of
 145 subsection (1) of section 206.41, Florida Statutes, and amended
 146 to read:

147 206.41 State taxes imposed on motor fuel.—

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

150 (h) ~~(1)~~ An additional 0.125 cents per net gallon is levied
 151 on all motor fuel for sale or use in this state for the purpose
 152 of defraying the expenses incident to inspecting, testing, and
 153 analyzing motor fuel petroleum fuels in this state, there shall
 154 be paid to the department a charge of one eighth cent per gallon
 155 on all gasoline, kerosene (except when used as aviation turbine
 156 fuel), and #1 fuel oil for sale or use in this state. All moneys
 157 collected pursuant to this paragraph shall be deposited into the
 158 State Treasury. Such moneys shall be distributed monthly into
 159 the General Inspection Trust Fund. This inspection fee shall be
 160 imposed in the same manner as the motor fuel tax pursuant to s.
 161 206.41. Payment shall be made on or before the 25th day of each
 162 month.

163 Section 2. Subsection (22) of section 493.6101, Florida
 164 Statutes, is amended to read:

165 493.6101 Definitions.—

166 (22) "Repossession" means the recovery of a motor vehicle
 167 as defined under s. 320.01(1), a mobile home as defined in s.
 168 320.01(2), a motorboat as defined under s. 327.02, an aircraft



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169 as defined in s. 330.27(1), a personal watercraft as defined in
170 s. 327.02, an all-terrain vehicle as defined in s. 316.2074,
171 farm equipment as defined under s. 686.402, or industrial
172 equipment, by an individual who is authorized by the legal
173 owner, lienholder, or lessor to recover, or to collect money
174 payment in lieu of recovery of, that which has been sold or
175 leased under a security agreement that contains a repossession
176 clause. As used in this subsection, the term "industrial
177 equipment" includes, but is not limited to, tractors, road
178 rollers, cranes, forklifts, backhoes, and bulldozers. The term
179 "industrial equipment" also includes other vehicles that are
180 propelled by power other than muscular power and that are used
181 in the manufacture of goods or used in the provision of
182 services. A repossession is complete when a licensed recovery
183 agent is in control, custody, and possession of such repossessed
184 property. Property that is being repossessed shall be considered
185 to be in the control, custody, and possession of a recovery
186 agent if the property being repossessed is secured in
187 preparation for transport from the site of the recovery by means
188 of being attached to or placed on the towing or other transport
189 vehicle or if the property being repossessed is being operated
190 or about to be operated by an employee of the recovery agency.

191 Section 3. Paragraph (b) of subsection (3) of section
192 493.6113, Florida Statutes, is amended to read:

193 493.6113 Renewal application for licensure.—

194 (3) Each licensee is responsible for renewing his or her
195 license on or before its expiration by filing with the
196 department an application for renewal accompanied by payment of



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197 the prescribed license fee.

198 (b) Each Class "G" licensee shall additionally submit
199 proof that he or she has received during each year of the
200 license period a minimum of 4 hours of firearms recertification
201 training taught by a Class "K" licensee and has complied with
202 such other health and training requirements which the department
203 shall ~~may~~ adopt by rule. Proof of completion of firearms
204 recertification training shall be submitted to the department
205 upon completion of the training. If documentation of completion
206 of the required training is not submitted by the end of the
207 first year of the 2-year term of the license, the individual's
208 license shall be automatically suspended until proof of the
209 required training is submitted to the department. If
210 documentation of completion of the required training is not
211 submitted by the end of the second year of the 2-year term of
212 the license, the license shall not be renewed unless ~~If proof of~~
213 ~~a minimum of 4 hours of annual firearms recertification training~~
214 ~~cannot be provided,~~ the renewal applicant completes ~~shall~~
215 ~~complete~~ the minimum number of hours of range and classroom
216 training required at the time of initial licensure. The
217 department may waive the ~~foregoing~~ firearms training requirement
218 if:

219 1. The applicant provides proof that he or she is
220 currently certified as a law enforcement officer or correctional
221 officer under the Criminal Justice Standards and Training
222 Commission and has completed law enforcement firearms
223 requalification training annually during the previous 2 years of
224 the licensure period; :-



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225 | 2. The applicant provides proof that he or she is
 226 | currently certified as a federal law enforcement officer and has
 227 | received law enforcement firearms training administered by a
 228 | federal law enforcement agency annually during the previous 2
 229 | years of the licensure period; or—

230 | 3. The applicant submits a valid firearm certificate among
 231 | those specified in s. 493.6105(6) (a) and provides proof of
 232 | having completed requalification training during the previous 2
 233 | years of the licensure period.

234 | Section 4. Subsection (3) of section 493.6116, Florida
 235 | Statutes, is amended to read:

236 | 493.6116 Sponsorship of interns.—

237 | (3) Internship is intended to serve as a learning process.
 238 | Sponsors shall assume a training status by providing direction
 239 | and control of interns. Sponsors ~~shall only sponsor interns~~
 240 | ~~whose place of business is within a 50-mile distance of the~~
 241 | ~~sponsor's place of business and~~ shall not allow interns to
 242 | operate independently of such direction and control, ~~or~~ require
 243 | interns to perform activities that ~~which~~ do not enhance the
 244 | intern's qualification for licensure. Interns must perform
 245 | regulated duties within the boundaries of this state during the
 246 | period of internship.

247 | Section 5. Paragraphs (u) and (v) of subsection (1) of
 248 | section 493.6118, Florida Statutes, are redesignated as
 249 | paragraphs (w) and (x), respectively, and new paragraphs (u) and
 250 | (v) are added to that subsection to read:

251 | 493.6118 Grounds for disciplinary action.—

252 | (1) The following constitute grounds for which



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253 disciplinary action specified in subsection (2) may be taken by
 254 the department against any licensee, agency, or applicant
 255 regulated by this chapter, or any unlicensed person engaged in
 256 activities regulated under this chapter.

257 (u) For a Class "G" licensee, failing to timely complete
 258 recertification training as required in s. 493.6113(3)(b).

259 (v) For a Class "K" licensee, failing to maintain active
 260 certification specified under s. 493.6105(6).

261 Section 6. Subsection (1) of section 493.6120, Florida
 262 Statutes, is amended, and subsection (5) is added to that
 263 section, to read:

264 493.6120 Violations; penalty.—

265 (1) Any person who violates any provision of this chapter
 266 except subsection (5) and s. 493.6405 commits a misdemeanor of
 267 the first degree, punishable as provided in s. 775.082 or s.
 268 775.083.

269 (5) A person may not knowingly possess, issue, cause to be
 270 issued, sell, submit, or offer a fraudulent training
 271 certificate, proficiency form, or other official document that
 272 declares an applicant to have successfully completed any course
 273 of training required for licensure under this chapter when that
 274 person either knew or reasonably should have known that the
 275 certificate, form, or document was fraudulent. A person who
 276 violates this subsection commits a felony of the third degree,
 277 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

278 Section 7. Paragraph (b) of subsection (1) and subsections
 279 (2) and (7) of section 496.405, Florida Statutes, are amended to
 280 read:



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281 496.405 Registration statements by charitable
282 organizations and sponsors.—

283 (1)

284 (b) Any changes in the information submitted on the
285 initial registration statement or the last renewal statement
286 must be updated annually on a renewal statement provided by the
287 department on or before the date that marks one year after the
288 date the department approved the initial registration statement
289 as provided in this section. The department shall annually
290 provide a renewal statement to each registrant by mail or by
291 electronic mail at least 30 ~~60~~ days before the renewal date.

292 (2) The initial registration statement must be submitted
293 on a form prescribed by the department, signed ~~under oath~~ by an
294 authorized official ~~the treasurer or chief fiscal officer~~ of the
295 charitable organization or sponsor who shall certify that the
296 registration statement is true and correct, and include the
297 following information or material:

298 (a) A copy of the financial report or Internal Revenue
299 Service Form 990 and all attached schedules ~~Schedule A~~ or
300 Internal Revenue Service Form 990-EZ and Schedule O required
301 under s. 496.407 for the immediately preceding fiscal year. A
302 newly organized charitable organization or sponsor with no
303 financial history must file a budget for the current fiscal
304 year.

305 (b) The name of the charitable organization or sponsor,
306 the purpose for which it is organized, the name under which it
307 intends to solicit contributions, and the purpose or purposes
308 for which the contributions to be solicited will be used.



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309 (c) The name of the individuals or officers who are in
 310 charge of any solicitation activities.

311 (d) A statement of whether:

312 1. The charitable organization or sponsor is authorized by
 313 any other state to solicit contributions;

314 2. The charitable organization or sponsor or any of its
 315 officers, directors, trustees, or principal salaried executive
 316 personnel have been enjoined in any jurisdiction from soliciting
 317 contributions or have been found to have engaged in unlawful
 318 practices in the solicitation of contributions or administration
 319 of charitable assets;

320 3. The charitable organization or sponsor has had its
 321 registration or authority denied, suspended, or revoked by any
 322 governmental agency, together with the reasons for such denial,
 323 suspension, or revocation; and

324 4. The charitable organization or sponsor has voluntarily
 325 entered into an assurance of voluntary compliance in any
 326 jurisdiction or agreement similar to that set forth in s.
 327 496.420, together with a copy of that agreement.

328 5. The charitable organization or sponsor or any of its
 329 officers, directors, trustees, or employees, regardless of
 330 adjudication, has been convicted of, or found guilty of, or pled
 331 guilty or nolo contendere to, or has been incarcerated within
 332 the last 10 years as a result of having previously been
 333 convicted of, or found guilty of, or pled guilty or nolo
 334 contendere to, any felony ~~or any crime involving fraud, theft,~~
 335 ~~larceny, embezzlement, fraudulent conversion, misappropriation~~
 336 ~~of property, or any crime arising from the conduct of a~~



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337 ~~solicitation for a charitable organization or sponsor~~ within the
338 last 10 years and, if so, the name of such person, the nature of
339 the offense, the date of the offense, the court having
340 jurisdiction in the case, the date of conviction or other
341 disposition, and the disposition of the offense.

342 6. The charitable organization or sponsor or any of its
343 officers, directors, trustees, or employees, regardless of
344 adjudication, has been convicted of, or found guilty of, or pled
345 guilty or nolo contendere to, or has been incarcerated within
346 the last 10 years as a result of having previously been
347 convicted of, or found guilty of, or pled guilty or nolo
348 contendere to, any crime involving fraud, theft, larceny,
349 embezzlement, fraudulent conversion, misappropriation of
350 property, or any crime enumerated in this chapter or resulting
351 from acts committed while involved in the solicitation of
352 contributions within the last 10 years and, if so, the name of
353 such person, the nature of the offense, the date of the offense,
354 the court having jurisdiction in the case, the date of
355 conviction or other disposition, and the disposition of the
356 offense.

357 ~~7.6.~~ The charitable organization or sponsor or any of its
358 officers, directors, trustees, or employees has been enjoined
359 from violating any law relating to a charitable solicitation,
360 and, if so, the name of such person, the date of the injunction,
361 and the court issuing the injunction.

362 (e) The names, street addresses, and telephone numbers of
363 any professional solicitor, professional fundraising consultant,
364 and commercial co-venturer who is acting or has agreed to act on



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365 | behalf of the charitable organization or sponsor, together with
366 | a statement setting forth the specific terms of the arrangements
367 | for salaries, bonuses, commissions, expenses, or other
368 | remunerations to be paid the fundraising consultant and
369 | professional solicitor.

370 | (f) With initial registration only, a statement showing
371 | when and where the organization was established and the tax-
372 | exempt status of the organization together with a copy of any
373 | federal tax exemption determination letter. If the charitable
374 | organization or sponsor has not received a federal tax exemption
375 | determination letter at the time of initial registration, a copy
376 | of such determination must be filed with the department within
377 | 30 days after receipt of the determination by the charitable
378 | organization or sponsor. If the organization is subsequently
379 | notified by the Internal Revenue Service of any challenge to its
380 | continued entitlement to federal tax exemption, the charitable
381 | organization or sponsor shall notify the department of this fact
382 | within 30 days after receipt.

383 | (g) The following information must be filed with the
384 | initial registration statement and must be updated when any
385 | change occurs in the information that was previously filed with
386 | the initial registration statement:

387 | 1. The principal street address and telephone number of
388 | the organization and the street address and telephone numbers of
389 | any offices in this state or, if the charitable organization or
390 | sponsor does not maintain an office in this state, the name,
391 | street address, and telephone number of the person that has
392 | custody of its financial records. The parent organization that



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393 | files a consolidated registration statement on behalf of its
 394 | chapters, branches, or affiliates must additionally provide the
 395 | street addresses and telephone numbers of all such locations in
 396 | this state.

397 | 2. The names and street addresses of the officers,
 398 | directors, trustees, and the principal salaried executive
 399 | personnel.

400 | 3. The date when the charitable organization's or
 401 | sponsor's fiscal year ends.

402 | 4. A list or description of the major program activities.

403 | 5. The names, street addresses, and telephone numbers of
 404 | the individuals or officers who have final responsibility for
 405 | the custody of the contributions and who will be responsible for
 406 | the final distribution of the contributions.

407 | (7) The department must examine each initial registration
 408 | statement or annual renewal statement and the supporting
 409 | documents filed by a charitable organization or sponsor and
 410 | shall determine whether the registration requirements are
 411 | satisfied. Within 15 ~~10~~ working days after its receipt of a
 412 | statement, the department must examine the statement, notify the
 413 | applicant of any apparent errors or omissions, and request any
 414 | additional information the department is allowed by law to
 415 | require. Failure to correct an error or omission or to supply
 416 | additional information is not grounds for denial of the initial
 417 | registration or annual renewal statement unless the department
 418 | has notified the applicant within the 15-working-day ~~10-working-~~
 419 | ~~day~~ period. The department must approve or deny each statement,
 420 | or must notify the applicant that the activity for which she or



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421 he seeks registration is exempt from the registration
422 requirement, within 15 ~~10~~ working days after receipt of the
423 initial registration or annual renewal statement or the
424 requested additional information or correction of errors or
425 omissions. Any statement that is not approved or denied within
426 15 ~~10~~ working days after receipt of the requested additional
427 information or correction of errors or omissions is approved.
428 Within 7 working days after receipt of a notification that the
429 registration requirements are not satisfied, the charitable
430 organization or sponsor may request a hearing. The hearing must
431 be held within 7 working days after receipt of the request, and
432 any recommended order, if one is issued, must be rendered within
433 3 working days of the hearing. The final order must then be
434 issued within 2 working days after the recommended order. If a
435 recommended order is not issued, the final order must be issued
436 within 5 working days after the hearing. The proceedings must be
437 conducted in accordance with chapter 120, except that the time
438 limits and provisions set forth in this subsection prevail to
439 the extent of any conflict.

440 Section 8. Section 496.406, Florida Statutes, is amended
441 to read:

442 496.406 Exemption from registration.—

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

445 (a) ~~(1)~~ A person who is soliciting for a named individual,
446 provided that all the contributions collected without any
447 deductions whatsoever are turned over to the beneficiary for her
448 or his use and provided that the person has complied with the



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449 requirements of s. 496.413.

450 ~~(b)(2)~~ A charitable organization or sponsor that ~~which~~
451 limits solicitation of contributions to the membership of the
452 charitable organization or sponsor. For the purposes of this
453 paragraph, the term "membership" does not include those persons
454 who are granted a membership upon making a contribution as a
455 result of a solicitation.

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

459 (d) A charitable organization or sponsor that has less
460 than \$25,000 in total revenue during a fiscal year if the
461 fundraising activities of such organization or sponsor are
462 carried on by volunteers, members, or officers who are not
463 compensated and no part of the assets or income of such
464 organization or sponsor inures to the benefit of or is paid to
465 any officer or member of such organization or sponsor or to any
466 professional fundraising consultant, professional solicitor, or
467 commercial co-venturer. If a charitable organization or sponsor
468 that has less than \$25,000 in total revenue during a fiscal year
469 actually acquires total revenue equal to or in excess of
470 \$25,000, the charitable organization or sponsor must register
471 with the department as required by s. 496.405 within 30 days
472 after the date the revenue reaches \$25,000.

473 (2) Before soliciting contributions, a charitable
474 organization or sponsor claiming to be exempt from the
475 registration requirements of s. 496.405 under paragraph (1)(d)
476 must submit annually to the department, on forms prescribed by



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477 the department:

478 (a) The name, address, and telephone number of the
479 charitable organization or sponsor, the name under which it
480 intends to solicit contributions, the purpose for which it is
481 organized, and the purpose or purposes for which the
482 contributions to be solicited will be used.

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

484 (c) The date on which the organization's fiscal year ends.

485 (d) The names, street addresses, and telephone numbers of
486 the individuals or officers who have final responsibility for
487 the custody of the contributions and who will be responsible for
488 the final distribution of the contributions.

489 (e) A financial statement of support, revenue, and
490 expenses and a statement of functional expenses that must
491 include, but not be limited to, expenses in the following
492 categories: program, management and general, and fundraising.
493 In lieu of the financial statement, a charitable organization or
494 sponsor may submit a copy of its Internal Revenue Service Form
495 990 and all attached schedules or Internal Revenue Service Form
496 990-EZ and Schedule O.

497 (3) A charitable organization or sponsor claiming to be
498 exempt from the registration requirements of this chapter shall
499 submit any information that the department may request to
500 substantiate an exemption under this section. A charitable
501 organization or sponsor that fails to submit information
502 satisfactory to the department is not exempt from the
503 requirements of this chapter. In any proceeding, the burden of
504 proving an exemption is upon the charitable organization or



505 sponsor claiming it.

506 (4) Exemption from the registration requirements of s.
507 496.405 does not limit the applicability of other provisions of
508 this section to a charitable organization or sponsor.

509 Section 9. Subsection (2) of section 496.407, Florida
510 Statutes, is amended to read:

511 496.407 Financial report.—

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

518 Section 10. Subsections (2), (3), and (6) of section
519 496.409, Florida Statutes, are amended to read:

520 496.409 Registration and duties of professional
521 fundraising consultant.—

522 (2) Applications for registration or renewal of
523 registration must be submitted on a form prescribed by the
524 department, signed by an authorized official of the professional
525 fundraising consultant who shall certify that the report is true
526 and correct ~~under oath~~, and must include the following
527 information:

528 (a) The street address and telephone number of the
529 principal place of business of the applicant and any Florida
530 street addresses if the principal place of business is located
531 outside this state.

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



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

535 (d) Whether any of the owners, directors, officers, or
536 employees of the applicant are related as parent, child, spouse,
537 or sibling to any other directors, officers, owners, or
538 employees of the applicant; to any officer, director, trustee,
539 or employee of any charitable organization or sponsor under
540 contract to the applicant; or to any supplier or vendor
541 providing goods or services to any charitable organization or
542 sponsor under contract to the applicant.

543 (e) Whether the applicant or any of its officers,
544 directors, trustees, or employees have, within the last 10
545 years, regardless of adjudication, been convicted, or found
546 guilty of, or pled guilty or nolo contendere to, or have been
547 incarcerated within the last 10 years as a result of having
548 previously been convicted of, or found guilty of, or pled guilty
549 or nolo contendere to, any felony and, if so, the name of such
550 person, the nature of the offense, the date of the offense, the
551 court having jurisdiction in the case, the date of conviction or
552 other disposition, and the disposition of the offense.

553 (f) Whether the applicant or any of its officers,
554 directors, trustees, or employees have, regardless of
555 adjudication, been convicted of, or found guilty of, or pled
556 guilty or nolo contendere to, or have been incarcerated within
557 the last 10 years as a result of having previously been
558 convicted of, or found guilty of, or pled guilty or nolo
559 contendere to, a crime within the last 10 years involving fraud,
560 theft, larceny, embezzlement, fraudulent conversion, or



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561 misappropriation of property, or any crime arising from the
562 conduct of a solicitation for a charitable organization or
563 sponsor and, if so, the name of such person, the nature of the
564 offense, the date of the offense, the court having jurisdiction
565 in the case, the date of conviction or other disposition, and
566 the disposition of the offense.

567 (g) Whether the applicant or any of its officers,
568 directors, trustees, or employees have been enjoined from
569 violating any law relating to a charitable solicitation and, if
570 so, the name of such person, the date of the injunction, and the
571 court issuing the injunction.

572 (3) The application for registration must be accompanied
573 by a fee of \$300. A professional fundraising consultant which is
574 a partnership or corporation may register for and pay a single
575 fee on behalf of all of its partners, members, officers,
576 directors, agents, and employees. In that case, the names and
577 street addresses of all the officers, employees, and agents of
578 the fundraising consultant and all other persons with whom the
579 fundraising consultant has contracted to work under its
580 direction must be listed in the application. Each registration
581 is valid for 1 year ~~or a part of 1 year and expires on March 31~~
582 ~~of each year.~~ The registration may be renewed ~~on or before March~~
583 ~~31 of each year~~ for additional 1-year periods upon application
584 to the department and payment of the registration fee.

585 (6) The department shall examine each registration
586 statement and supporting documents filed by a professional
587 fundraising consultant and determine whether the registration
588 requirements are satisfied. If the department determines that



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589 the registration requirements are not satisfied, the department
590 must notify the professional fundraising consultant within 15 ~~10~~
591 working days after its receipt of the registration statement;
592 otherwise the registration statement is approved. Within 7
593 working days after receipt of a notification that the
594 registration requirements are not satisfied, the applicant may
595 request a hearing. The hearing must be held within 7 working
596 days after receipt of the request, and any recommended order, if
597 one is issued, must be rendered within 3 working days after the
598 hearing. The final order must then be issued within 2 working
599 days after the recommended order. If there is no recommended
600 order, the final order must be issued within 5 working days
601 after the hearing. The proceedings must be conducted in
602 accordance with chapter 120, except that the time limits and
603 provisions set forth in this subsection prevail to the extent of
604 any conflict.

605 Section 11. Subsections (2), (3), (5), and (8) of section
606 496.410, Florida Statutes, are amended to read:

607 496.410 Registration and duties of professional
608 solicitors.—

609 (2) Applications for registration or renewal of
610 registration must be submitted on a form prescribed by rule of
611 the department, signed by an authorized official of the
612 professional solicitor who shall certify that the report is true
613 and correct ~~under oath~~, and must include the following
614 information:

615 (a) The street address and telephone number of the
616 principal place of business of the applicant and any Florida



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617 street addresses if the principal place of business is located
 618 outside this state.

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

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

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

624 (e) A statement as to whether any of the owners,
 625 directors, officers, or employees of the applicant are related
 626 as parent, spouse, child, or sibling to any other directors,
 627 officers, owners, or employees of the applicant; to any officer,
 628 director, trustee, or employee of any charitable organization or
 629 sponsor under contract to the applicant; or to any supplier or
 630 vendor providing goods or services to any charitable
 631 organization or sponsor under contract to the applicant.

632 (f) A statement as to whether the applicant or any of its
 633 directors, officers, trustees, persons with a controlling
 634 interest in the applicant, or employees or agents involved in
 635 solicitation have, within the last 10 years, regardless of
 636 adjudication, been convicted of, or found guilty of, or pled
 637 guilty or nolo contendere to, or have been incarcerated within
 638 the last 10 years as a result of having previously been
 639 convicted of, or found guilty of, or pled guilty or nolo
 640 contendere to, any felony and, if so, the name of such person,
 641 the nature of the offense, the date of the offense, the court
 642 having jurisdiction in the case, the date of conviction or other
 643 disposition, and the disposition of the offense.

644 (g) A statement as to whether the applicant or any of its



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645 directors, officers, trustees, persons with a controlling
646 interest in the applicant, or employees or agents involved in
647 solicitation have, regardless of adjudication, been convicted
648 of, or found guilty of, or pled guilty or nolo contendere to, or
649 have been incarcerated within the last 10 years as a result of
650 having previously been convicted of, or found guilty of, or pled
651 guilty or nolo contendere to, a crime within the last 10 years
652 involving fraud, theft, larceny, embezzlement, fraudulent
653 conversion, or misappropriation of property, or any crime
654 arising from the conduct of a solicitation for a charitable
655 organization or sponsor and, if so, the name of such person, the
656 nature of the offense, the date of the offense, the court having
657 jurisdiction in the case, the date of conviction or other
658 disposition, and the disposition of the offense.

659 (h) A statement as to whether the applicant or any of its
660 directors, officers, trustees, persons with a controlling
661 interest in the applicant, or employees or agents involved in
662 solicitation have been enjoined from violating any law relating
663 to a charitable solicitation and, if so, the name of such
664 person, the date of the injunction, and the court issuing the
665 injunction.

666 (i) The names of all persons in charge of any solicitation
667 activity.

668 (3) The application for registration must be accompanied
669 by a fee of \$300. A professional solicitor that is a partnership
670 or corporation may register for and pay a single fee on behalf
671 of all of its partners, members, officers, directors, agents,
672 and employees. In that case, the names and street addresses of



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673 | all the officers, employees, and agents of the professional
674 | solicitor and all other persons with whom the professional
675 | solicitor has contracted to work under its direction, including
676 | solicitors, must be listed in the application or furnished to
677 | the department within 5 days after the date of employment or
678 | contractual arrangement. Each registration is valid for 1 year
679 | ~~or a part of 1 year and expires on March 31 of each year.~~ The
680 | registration may be renewed ~~on or before March 31 of each year~~
681 | for an additional 1-year period upon application to the
682 | department and payment of the registration fee.

683 | (5) The department must examine each registration
684 | statement and supporting documents filed by a professional
685 | solicitor. If the department determines that the registration
686 | requirements are not satisfied, the department must notify the
687 | professional solicitor within 15 ~~10~~ working days after its
688 | receipt of the registration statement; otherwise the
689 | registration statement is approved. Within 7 working days after
690 | receipt of a notification that the registration requirements are
691 | not satisfied, the applicant may request a hearing. The hearing
692 | must be held within 7 working days after receipt of the request,
693 | and any recommended order, if one is issued, must be rendered
694 | within 3 working days after the hearing. The final order must
695 | then be issued within 2 working days after the recommended
696 | order. If there is no recommended order, the final order must be
697 | issued within 5 working days after the hearing. The proceedings
698 | must be conducted in accordance with chapter 120, except that
699 | the time limits and provisions set forth in this subsection
700 | prevail to the extent of any conflict.



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701 (8) Within ~~45 90~~ days after a solicitation campaign has
 702 been completed and within 45 days after ~~on~~ the anniversary of
 703 the commencement of a solicitation campaign lasting more than 1
 704 year, the professional solicitor must provide to the charitable
 705 organization or sponsor and file with the department a financial
 706 report of the campaign, including the gross revenue received and
 707 an itemization of all expenses incurred. The report must be
 708 completed on a form prescribed by the department and signed by
 709 an authorized official of the professional solicitor who shall
 710 certify ~~under oath~~ that the report is true and correct.

711 Section 12. Subsection (6) of section 496.411, Florida
 712 Statutes, is amended to read:

713 496.411 Disclosure requirements and duties of charitable
 714 organizations and sponsors.—

715 (6) Each charitable organization or sponsor that is
 716 required to register under s. 496.405 shall conspicuously
 717 display the organization's or sponsor's registration number
 718 issued by the department under this chapter following
 719 ~~information~~ on every printed solicitation, written confirmation,
 720 receipt, or reminder of a contribution:

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

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

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

728



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729 If the solicitation consists of more than a single item, the
 730 statement shall be displayed prominently in the solicitation
 731 materials.

732 Section 13. Subsection (2) of section 496.415, Florida
 733 Statutes, is amended to read:

734 496.415 Prohibited acts.—It is unlawful for any person in
 735 connection with the planning, conduct, or execution of any
 736 solicitation or charitable or sponsor sales promotion to:

737 (2) Knowingly submit file false, ~~or~~ misleading, or
 738 inaccurate information in a any document that is required to be
 739 filed with the department, provided to the public, or offered in
 740 response to a any request or investigation by the department,
 741 the Department of Legal Affairs, or the state attorney.

742 Section 14. Subsection (8) of section 496.419, Florida
 743 Statutes, is amended, and subsection (10) is added to that
 744 section, to read:

745 496.419 Powers of the department.—

746 (8) The department shall report any substantiated criminal
 747 violation of ss. 496.401-496.424 or s. 496.426 to the proper
 748 prosecuting authority for prompt prosecution.

749 (10) A finding of a violation of s. 496.415(3), (5), (6),
 750 (10), (12), (13), or (14) constitutes an immediate threat to the
 751 public health, safety, and welfare and is sufficient grounds for
 752 the department to issue an immediate order to cease and desist
 753 all solicitation activities. The order shall act as an immediate
 754 final order under s. 120.569(2)(n) and shall remain in effect
 755 until the violation has been remedied pursuant to this chapter.

756 Section 15. Subsections (1), (2), and (4) of section



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757 501.016, Florida Statutes, are amended to read:

758 501.016 Health studios; security requirements.—Each health
 759 studio that sells contracts for health studio services shall
 760 meet the following requirements:

761 (1) Each health studio shall maintain for each separate
 762 business location a bond issued by a surety company admitted to
 763 do business in this state. The principal sum of the bond shall
 764 be \$25,000 ~~\$50,000~~, and the bond, when required, shall be
 765 obtained before a business tax receipt may be issued under
 766 chapter 205. Upon issuance of a business tax receipt, the
 767 licensing authority shall immediately notify the department of
 768 such issuance in a manner established by the department by rule.
 769 The bond shall be in favor of the state for the benefit of any
 770 person injured as a result of a violation of ss. 501.012-
 771 501.019. The aggregate liability of the surety to all persons
 772 for all breaches of the conditions of the bonds provided herein
 773 shall in no event exceed the amount of the bond. The original
 774 surety bond required by this section shall be filed with the
 775 department.

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

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

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

782
 783 The original letter of credit or certificate of deposit
 784 submitted in lieu of the bond shall be filed with the



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785 department. The department shall decide whether the security
 786 furnished in lieu of bond by the health studio is in compliance
 787 with the requirements of this section.

788 (4) If the health studio furnishes the department with
 789 evidence satisfactory to the department that the aggregate
 790 dollar amount of all current outstanding contracts of the health
 791 studio is less than \$5,000, the department may, at its
 792 discretion, reduce the principal amount of the surety bond or
 793 other sufficient financial responsibility required in
 794 subsections (1) and (2) to a sum of not less than \$10,000.
 795 However, at any time the aggregate dollar amount of such
 796 contracts exceeds \$5,000, the health studio shall so notify the
 797 department and shall thereupon provide the bond or other
 798 documentation as required in subsections (1) and (2). Health
 799 studios whose bonds have been reduced must provide the
 800 department with an annually updated list of members. Failure to
 801 file an annual report will result in the department raising the
 802 security requirement to \$25,000 ~~\$50,000~~.

803 Section 16. Subsections (5) through (10) of section
 804 501.059, Florida Statutes, are renumbered as subsections (6)
 805 through (11), respectively, and a new subsection (5) is added to
 806 that section to read:

807 501.059 Telephone solicitation.—

808 (5) A telephone solicitor may not initiate an outbound
 809 telephone call to a consumer who has previously communicated to
 810 the telephone solicitor that he or she does not wish to receive
 811 an outbound telephone call:

812 (a) Made by or on behalf of the seller whose goods or



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813 services are being offered; or

814 (b) Made on behalf of a charitable organization for which
815 a charitable contribution is being solicited.

816 Section 17. Subsections (1) and (2) of section 501.603,
817 Florida Statutes, are amended to read:

818 501.603 Definitions.—As used in this part, unless the
819 context otherwise requires, the term:

820 (1) "Commercial telephone solicitation" means:

821 (a) An unsolicited telephone call to a person initiated by
822 a commercial telephone seller or salesperson, or an automated
823 dialing machine used in accordance with the provisions of s.
824 501.059(8) ~~501.059(7)~~ for the purpose of inducing the person to
825 purchase or invest in consumer goods or services;

826 (b) Other communication with a person where:

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

828 2. A telephone call response is invited; and

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

832 (c) Other communication with a person which represents a
833 price, quality, or availability of consumer goods or services
834 and which invites a response by telephone or which is followed
835 by a call to the person by a salesperson.

836

837 For purposes of this section, "other communication" means a
838 written or oral notification or advertisement transmitted
839 through any means. Also, for purposes of this section, "invites
840 a response by telephone" does not mean the mere listing or



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841 including of a telephone number in a notification or
 842 advertisement.

843 (2) "Commercial telephone seller" means a ~~any~~ person who
 844 engages in commercial telephone solicitation on his or her own
 845 behalf or through salespersons, except that a commercial
 846 telephone seller does not include a person or entity operating
 847 under a valid affidavit of exemption filed with the department
 848 according to s. 501.608(1)(b) or ~~any of the persons or entities~~
 849 exempted from this part by s. 501.604. A commercial telephone
 850 seller does not include a salesperson as defined in subsection
 851 (10). A commercial telephone seller includes, but is not limited
 852 to, owners, operators, officers, directors, partners, or other
 853 individuals engaged in the management activities of a business
 854 entity pursuant to this part.

855 Section 18. Subsections (4), (7), (10), (14), and (24) of
 856 section 501.604, Florida Statutes, are amended to read:

857 501.604 Exemptions.—The provisions of this part, except
 858 ss. 501.608 and 501.616(6) and (7), do not apply to:

859 (4) A ~~Any~~ licensed securities, commodities, or investment
 860 broker, dealer, or investment adviser, when soliciting within
 861 the scope of his or her license, or a ~~any~~ licensed associated
 862 person of a securities, commodities, or investment broker,
 863 dealer, or investment adviser, when soliciting within the scope
 864 of his or her license. As used in this section, "licensed
 865 securities, commodities, or investment broker, dealer, or
 866 investment adviser" means a person subject to license or
 867 registration as such by the Securities and Exchange Commission,
 868 by the Financial Industry Regulatory Authority ~~National~~



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869 ~~Association of Securities Dealers~~ or other self-regulatory
 870 organization as defined by the Securities Exchange Act of 1934,
 871 15 U.S.C. s. 781, or by an official or agency of this state or
 872 of any state of the United States. As used in this section,
 873 "licensed associated person of a securities, commodities, or
 874 investment broker, dealer, or investment adviser" means an ~~any~~
 875 associated person registered or licensed by the Financial
 876 Industry Regulatory Authority ~~National Association of Securities~~
 877 ~~Dealers~~ or other self-regulatory organization as defined by the
 878 Securities Exchange Act of 1934, 15 U.S.C. s. 781, or by an
 879 official or agency of this state or of any state of the United
 880 States.

881 (7) A ~~Any~~ supervised financial institution or parent,
 882 subsidiary, or affiliate thereof operating within the scope of
 883 supervised activity. As used in this section, "supervised
 884 financial institution" means a ~~any~~ commercial bank, trust
 885 company, savings and loan association, mutual savings bank,
 886 credit union, industrial loan company, consumer finance lender,
 887 commercial finance lender, or insurer, provided that the
 888 institution is subject to supervision by an official or agency
 889 of this state, of any state, or of the United States. For the
 890 purposes of this exemption, "affiliate" means a person who
 891 directly, or indirectly through one or more intermediaries,
 892 controls or is controlled by, or is under common control with, a
 893 supervised financial institution.

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

895 (a) The commercial telephone seller has been lawfully
 896 operating continuously for at least 3 years under the same



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897 business name and has at least 50 percent of its dollar volume
 898 consisting of repeat sales to existing businesses;

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

902 (c) The purchaser business intends to use the property or
 903 goods purchased in a recycling, reuse, remanufacturing, or
 904 manufacturing process.

905 (14) A telephone company subject to ~~the provisions of~~
 906 chapter 364, or affiliate thereof or its agents, or a
 907 telecommunications business that ~~which~~ is regulated by the
 908 Florida Public Service Commission, or a Federal Communications
 909 Commission licensed cellular telephone company or other bona
 910 fide radio telecommunication services provider. For the purposes
 911 of this exemption, "affiliate" means a person who directly, or
 912 indirectly through one or more intermediaries, controls or is
 913 controlled by, or is under common control with, a telephone
 914 company subject to ~~the provisions of~~ chapter 364.

915 (24) Any person who ~~which~~ has been lawfully providing
 916 telemarketing sales services continuously for at least 5 years
 917 under the same ownership and control and who ~~which~~ derives 75
 918 percent of its gross telemarketing sales revenues from contracts
 919 with persons exempted in this section.

920 Section 19. Subsection (1) of section 501.607, Florida
 921 Statutes, is amended to read:

922 501.607 Licensure of salespersons.—

923 (1) An applicant for a license as a salesperson must
 924 submit to the department, in such form as it prescribes, a



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925 written application for a license. The application must set
926 forth the following information:

927 (a) The true name, date of birth, driver license number or
928 other valid form of identification, and home address of the
929 applicant.

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

933 (b)~~(e)~~ The previous experience of the applicant as a
934 commercial telephone seller or salesperson.

935 (c)~~(d)~~ Whether the applicant, regardless of adjudication,
936 has previously been arrested for, convicted or found guilty of,
937 has entered a plea of guilty or a plea of nolo contendere to, or
938 is under indictment or information for, a felony and, if so, the
939 nature of the felony.

940 (d)~~(e)~~ Whether the applicant, regardless of adjudication,
941 has previously been convicted or found guilty of, has entered a
942 plea of guilty or a plea of nolo contendere to, or is under
943 indictment or information for, racketeering or any offense
944 involving fraud, theft, embezzlement, fraudulent conversion, or
945 misappropriation of property.

946 (e)~~(f)~~ Whether there has ever been a judicial or
947 administrative finding that the applicant has previously been
948 convicted of acting as a salesperson without a license, or
949 whether such a license has previously been refused, revoked, or
950 suspended in any jurisdiction.

951 (f)~~(g)~~ Whether the applicant has worked for, or been
952 affiliated with, a company that is involved in pending



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953 litigation or has had entered against it an injunction, a
954 temporary restraining order, or a final judgment or order,
955 including a stipulated judgment or order, an assurance of
956 voluntary compliance, or any similar document, in any civil or
957 administrative action involving racketeering, fraud, theft,
958 embezzlement, fraudulent conversion, or misappropriation of
959 property or the use of any untrue, deceptive, or misleading
960 representation or the use of any unfair, unlawful, or deceptive
961 trade practice.

962 (g) ~~(h)~~ Whether the applicant is involved in pending
963 litigation or has had entered against her or him an injunction,
964 a temporary restraining order, or a final judgment or order,
965 including a stipulated judgment or order, an assurance of
966 voluntary compliance, or any similar document, in any civil or
967 administrative action involving racketeering, fraud, theft,
968 embezzlement, fraudulent conversion, or misappropriation of
969 property or the use of any untrue, deceptive, or misleading
970 representation or the use of any unfair, unlawful, or deceptive
971 trade practice.

972 Section 20. Paragraph (b) of subsection (1) and
973 subsections (2) and (3) of section 501.608, Florida Statutes,
974 are amended to read:

975 501.608 License or affidavit of exemption; occupational
976 license.—

977 (1)

978 (b) Any commercial telephone seller claiming to be exempt
979 from the act under s. 501.604(2), (3), (5), (6), (9), (10),
980 (11), (12), (17), (21), (22), (24), or (26) must file with the



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981 department a notarized affidavit of exemption. The affidavit of
982 exemption must be on forms prescribed by the department and must
983 require the name of the commercial telephone seller, the name of
984 the business, and the business address. At the request of the
985 department, the commercial telephone seller shall provide sales
986 scripts, contracts, and other documentation as needed to verify
987 the validity of the exemption before the affidavit of exemption
988 is accepted for filing. A ~~Any~~ commercial telephone seller
989 maintaining more than one business may file a single notarized
990 affidavit of exemption that clearly indicates the location of
991 each place of business. If a change of ownership occurs, the
992 commercial telephone seller must notify the department.

993 (2) Each licensee or person operating under a valid and
994 properly filed ~~claiming an~~ exemption shall prominently display
995 his or her license or a copy of his or her receipt of filing of
996 the affidavit of exemption at each location where he or she does
997 business and. ~~Each licensee or person claiming an exemption~~
998 shall make the license or the receipt of filing ~~copy~~ of the
999 affidavit of exemption available for inspection by any
1000 governmental agency upon request.

1001 (3) Failure to obtain or display a license or a receipt of
1002 filing of an ~~copy of the~~ affidavit of exemption is sufficient
1003 grounds for the department to issue an immediate cease and
1004 desist order, which shall act as an immediate final order under
1005 s. 120.569(2)(n). The order shall ~~may~~ remain in effect until the
1006 commercial telephone seller or a person claiming to be exempt
1007 shows the authorities that he or she is properly licensed or
1008 exempt. The department may order the business to cease



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1009 operations and shall order the phones to be shut off. Failure of
 1010 a salesperson to display a license or a receipt of filing of an
 1011 affidavit of exemption may result in the salesperson being
 1012 summarily ordered by the department to leave the office until he
 1013 or she can produce a license or a receipt of filing of an
 1014 affidavit of exemption for the department.

1015 Section 21. Subsection (3) of section 501.611, Florida
 1016 Statutes, is amended to read:

1017 501.611 Security.—

1018 (3) The bond shall be posted with the department and shall
 1019 remain in force throughout the period of licensure with the
 1020 department.

1021 Section 22. Subsection (12) of section 501.615, Florida
 1022 Statutes, is amended to read:

1023 501.615 Written contract; cancellation; refund.—

1024 (12) Exempt from the requirements of subsections (1)-(5)
 1025 is any sale in which the consumer is given a right to a full
 1026 refund for the return of undamaged and unused goods or a
 1027 cancellation of services notice is given to the seller, within 7
 1028 days after receipt of the goods or services by the consumer, and
 1029 the seller shall process the refund within 30 days after receipt
 1030 of the returned merchandise by the consumer. A commercial
 1031 telephone seller or salesperson engaged in activity regulated by
 1032 chapter 721 must comply with s. 721.205.

1033 Section 23. Subsection (1) of section 501.617, Florida
 1034 Statutes, is amended to read:

1035 501.617 Investigative powers of enforcing authority.—

1036 (1) If, by her or his own inquiries or as a result of



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1037 | complaints, the enforcing authority has reason to believe that a
 1038 | person has engaged in, or is engaging in, an act or practice
 1039 | that violates ~~the provisions of~~ this part, she or he may
 1040 | administer oaths and affirmations, subpoena witnesses or matter,
 1041 | conduct regulatory inspections, and collect evidence. Within 10
 1042 | days after the service of a subpoena or at any time before the
 1043 | return date specified therein, whichever is longer, the party
 1044 | served may file in the circuit court in the county in which she
 1045 | or he resides or in which she or he transacts business and serve
 1046 | upon the enforcing authority a petition for an order modifying
 1047 | or setting aside the subpoena. The petitioner may raise any
 1048 | objection or privilege that ~~which~~ would be available under this
 1049 | part or upon service of such subpoena in a civil action. The
 1050 | subpoena shall inform the party served of her or his rights
 1051 | under this subsection.

1052 | Section 24. Subsection (10) is added to section 507.03,
 1053 | Florida Statutes, to read:

1054 | 507.03 Registration.—

1055 | (10) At the request of the department, each moving broker
 1056 | shall provide a complete list of the movers that the moving
 1057 | broker has contracted or is affiliated with, advertises on
 1058 | behalf of, arranges moves for, or refers shippers to, including
 1059 | each mover's complete name, address, telephone number, and e-
 1060 | mail address and the name of each mover's owner or other
 1061 | principal.

1062 | Section 25. Section 507.07, Florida Statutes, is amended
 1063 | to read:

1064 | 507.07 Violations.—It is a violation of this chapter ~~to~~:



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- 1065 | (1) To conduct business as a mover or moving broker, or
 1066 | advertise to engage in the business of moving or offering to
 1067 | move, without being registered with the department.
- 1068 | (2) To knowingly make any false statement, representation,
 1069 | or certification in any application, document, or record
 1070 | required to be submitted or retained under this chapter.
- 1071 | (3) To misrepresent or deceptively represent:
- 1072 | (a) The contract for services, bill of lading, or
 1073 | inventory of household goods for the move estimated.
- 1074 | (b) The timeframe or schedule for delivery or storage of
 1075 | household goods estimated.
- 1076 | (c) The price, size, nature, extent, qualities, or
 1077 | characteristics of accessorial or moving services offered.
- 1078 | (d) The nature or extent of other goods, services, or
 1079 | amenities offered.
- 1080 | (e) A shipper's rights, privileges, or benefits.
- 1081 | (4) To fail to honor and comply with all provisions of the
 1082 | contract for services or bill of lading regarding the
 1083 | purchaser's rights, benefits, and privileges thereunder.
- 1084 | (5) To withhold delivery of household goods or in any way
 1085 | hold goods in storage against the expressed wishes of the
 1086 | shipper if payment has been made as delineated in the estimate
 1087 | or contract for services.
- 1088 | (6) (a) To include in any contract any provision purporting
 1089 | to waive or limit any right or benefit provided to shippers
 1090 | under this chapter.
- 1091 | (b) To seek or solicit a waiver or acceptance of
 1092 | limitation from a shipper concerning rights or benefits provided



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1093 | under this chapter.

1094 | (c) To use a local mailing address, registration facility,
 1095 | drop box, or answering service in the promotion, advertising,
 1096 | solicitation, or sale of contracts, unless the mover's, and, if
 1097 | applicable, the moving broker's, fixed business address is
 1098 | clearly disclosed during any telephone solicitation and is
 1099 | prominently and conspicuously disclosed on all solicitation
 1100 | materials and on the contract.

1101 | (d) To commit any other act of fraud, misrepresentation,
 1102 | or failure to disclose a material fact.

1103 | (e) To refuse or fail, or for any of the mover's or
 1104 | broker's principal officers to refuse or fail, after notice, to
 1105 | produce any document or record or disclose any information
 1106 | required to be produced or disclosed.

1107 | (f) To knowingly make a false statement in response to any
 1108 | request or investigation by the department, the Department of
 1109 | Legal Affairs, or the state attorney.

1110 | (7) For a moving broker to enter into a contract or
 1111 | agreement for moving, loading, shipping, transporting, or
 1112 | unloading services with a mover who is not registered with the
 1113 | department pursuant to this chapter.

1114 | (8) For a mover to enter into a contract or agreement for
 1115 | moving, loading, shipping, transporting, or unloading services
 1116 | with a moving broker who is not registered with the department
 1117 | pursuant to this chapter.

1118 | Section 26. Paragraph (c) of subsection (1) of section
 1119 | 525.01, Florida Statutes, is amended to read:

1120 | 525.01 Gasoline and oil to be inspected.—



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- 1121 (1) For the purpose of this chapter:
- 1122 (c) "Alternative fuel" means:
- 1123 1. Methanol, denatured ethanol, or other alcohols;
- 1124 2. Mixtures of gasoline or other fuels with methanol,
 1125 denatured ethanol, or other alcohols ~~containing 85 percent or~~
 1126 ~~more by volume of methanol, denatured ethanol, or other alcohols~~
 1127 ~~with gasoline or other fuels, or such other percentage, but not~~
 1128 ~~less than 70 percent, as determined by the department by rule,~~
 1129 ~~to provide for requirements relating to cold start, safety, or~~
 1130 ~~vehicle functions;~~
- 1131 3. Hydrogen;
- 1132 4. Coal-derived liquid fuels; and
- 1133 5. Fuels, other than alcohol, derived from biological
 1134 materials.

1135 Section 27. Subsections (2), (3), and (4) of section
 1136 525.09, Florida Statutes, are repealed.

1137 Section 28. Section 525.10, Florida Statutes, is amended
 1138 to read:

1139 525.10 ~~Moneys to be paid into State Treasury;~~ Payment of
 1140 expenses. ~~All moneys payable under this chapter shall be payable~~
 1141 ~~to the department and shall be paid by it into the State~~
 1142 ~~Treasury monthly to be deposited into the General Inspection~~
 1143 ~~Trust Fund.~~ All expenses incurred in the enforcement of this
 1144 chapter and other inspection laws of this state for which fees
 1145 are collected, including acquiring equipment and other property,
 1146 shall be paid from the General Inspection Trust Fund. No money
 1147 shall be paid to any inspector or employee created under this
 1148 chapter except from the funds collected from the administration



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1149 of this chapter.

1150 Section 29. Subsections (3) and (4) of section 525.16,
1151 Florida Statutes, are renumbered as subsections (4) and (5),
1152 respectively, and a new subsection (3) is added to that section
1153 to read:

1154 525.16 Administrative fine; penalties; prosecution of
1155 cases by state attorney.—

1156 (3) An entity that sells, offers for sale, distributes, or
1157 offers for distribution petroleum or alternative fuels shall
1158 ensure that its activities result in petroleum fuels that meet
1159 all requirements and standards adopted under s. 525.14. A
1160 terminal supplier, wholesaler, or blender licensed under chapter
1161 206 is not liable for injuries or damages resulting from the
1162 subsequent blending of petroleum or alternative fuels occurring
1163 after the transfer of ownership of such fuels from the terminal
1164 supplier, wholesaler, or blender if the petroleum or alternative
1165 fuels used to make the petroleum fuel at issue met the
1166 requirements and standards adopted under s. 525.14 while under
1167 ownership of the terminal supplier, wholesaler, or blender.

1168 Section 30. Subsection (7) of section 526.141, Florida
1169 Statutes, is renumbered as subsection (8), and a new subsection
1170 (7) is added to that section to read:

1171 526.141 Self-service gasoline stations; attendants;
1172 regulations.—

1173 (7) A refiner, terminal supplier, wholesaler, or retailer
1174 is not liable for damages resulting from the use of incompatible
1175 motor fuel dispensed at a retail site if:

1176 (a) The incompatible fuel meets the requirements and



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1177 standards adopted under s. 525.14;

1178 (b) The incompatible fuel was selected by the purchaser;

1179 and

1180 (c) The retail dispenser that dispensed the incompatible
 1181 fuel was properly labeled according to the labeling requirements
 1182 adopted under s. 525.14.

1183 Section 31. Subsection (20) is added to section 527.01,
 1184 Florida Statutes, to read:

1185 527.01 Definitions.—As used in this chapter:

1186 (20) "License year" means the period from September 1
 1187 through the following August 31, or April 1 through the
 1188 following March 31, depending upon the type of license.

1189 Section 32. Subsections (1) and (3) and paragraphs (a) and
 1190 (c) of subsection (5) of section 527.0201, Florida Statutes, are
 1191 amended to read:

1192 527.0201 Qualifiers; master qualifiers; examinations.—

1193 (1) In addition to the requirements of s. 527.02, any
 1194 person applying for a license to engage in the activities of a
 1195 pipeline system operator, category I liquefied petroleum gas
 1196 dealer, category II liquefied petroleum gas dispenser, category
 1197 IV liquefied petroleum gas dispenser and recreational vehicle
 1198 servicer, category V liquefied petroleum gases dealer for
 1199 industrial uses only, LP gas installer, specialty installer,
 1200 requalifier ~~requalification~~ of cylinders, or fabricator,
 1201 repairer, and tester of vehicles and cargo tanks must prove
 1202 competency by passing a written examination administered by the
 1203 department or its agent with a grade of 75 percent or above in
 1204 each area tested. Each applicant for examination shall submit a



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1205 \$20 nonrefundable fee. The department shall by rule specify the
 1206 general areas of competency to be covered by each examination
 1207 and the relative weight to be assigned in grading each area
 1208 tested.

1209 (3) Qualifier cards issued to category I liquefied
 1210 petroleum gas dealers and liquefied petroleum gas installers
 1211 shall expire 3 years after the date of issuance. All category I
 1212 liquefied petroleum gas dealer qualifiers and liquefied
 1213 petroleum gas installer qualifiers holding a valid qualifier
 1214 card upon the effective date of this act shall retain their
 1215 qualifier status until July 1, 2003, and may sit for the master
 1216 qualifier examination at any time during that time period. All
 1217 such category I liquefied petroleum gas dealer qualifiers and
 1218 liquefied petroleum gas installer qualifiers may renew their
 1219 qualification on or before July 1, 2003, upon application to the
 1220 department, payment of a \$20 renewal fee, and documentation of
 1221 the completion of a minimum of 16 ~~12~~ hours approved continuing
 1222 education courses, as defined by department rule, during the
 1223 previous 3-year period. Applications for renewal must be made 30
 1224 calendar days before ~~prior to~~ expiration. Persons failing to
 1225 renew before ~~prior to~~ the expiration date must reapply and take
 1226 a qualifier competency examination in order to reestablish
 1227 category I liquefied petroleum gas dealer qualifier and
 1228 liquefied petroleum gas installer qualifier status. If a
 1229 category I liquefied petroleum gas qualifier or liquefied
 1230 petroleum gas installer qualifier becomes a master qualifier at
 1231 any time during the effective date of the qualifier card, the
 1232 card shall remain in effect until expiration of the master



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1233 | qualifier certification.

1234 | (5) In addition to all other licensing requirements, each
 1235 | category I liquefied petroleum gas dealer and liquefied
 1236 | petroleum gas installer must, at the time of application for
 1237 | licensure, identify to the department one master qualifier who
 1238 | is a full-time employee at the licensed location. This person
 1239 | shall be a manager, owner, or otherwise primarily responsible
 1240 | for overseeing the operations of the licensed location and must
 1241 | provide documentation to the department as provided by rule. The
 1242 | master qualifier requirement shall be in addition to the
 1243 | requirements of subsection (1).

1244 | (a) In order to apply for certification as a master
 1245 | qualifier, each applicant must be a category I liquefied
 1246 | petroleum gas dealer qualifier or liquefied petroleum gas
 1247 | installer qualifier, must be employed by a licensed category I
 1248 | liquefied petroleum gas dealer, liquefied petroleum gas
 1249 | installer, or applicant for such license, must provide
 1250 | documentation of a minimum of 1 year's work experience in the
 1251 | gas industry, and must pass a master qualifier competency
 1252 | examination. Master qualifier examinations shall be based on
 1253 | Florida's laws, rules, and adopted codes governing liquefied
 1254 | petroleum gas safety, general industry safety standards, and
 1255 | administrative procedures. The applicant ~~examination~~ must ~~be~~
 1256 | successfully pass the examination ~~completed by the applicant~~
 1257 | with a grade of 75 percent or above ~~more~~. Each applicant for
 1258 | master qualifier status must ~~shall~~ submit to the department a
 1259 | nonrefundable \$30 examination fee before ~~prior to~~ the
 1260 | examination.



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1261 (c) Master qualifier status shall expire 3 years after the
1262 date of issuance of the certificate and may be renewed by
1263 submission to the department of documentation of completion of
1264 at least 16 ~~12~~ hours of approved continuing education courses
1265 during the 3-year period; proof of employment with a licensed
1266 category I liquefied petroleum gas dealer, liquefied petroleum
1267 gas installer, or applicant; and a \$30 certificate renewal fee.
1268 The department shall define, by rule, approved courses of
1269 continuing education.

1270 Section 33. Section 527.03, Florida Statutes, is amended
1271 to read:

1272 527.03 Annual renewal of license.—All licenses required
1273 under this chapter shall be renewed annually subject to the
1274 license fees prescribed in s. 527.02. All licenses, except
1275 Category III Liquefied Petroleum Gas Cylinder Exchange Unit
1276 Operator licenses and Dealer in Appliances and Equipment for Use
1277 of Liquefied Petroleum Gas licenses, shall be renewed for the
1278 period beginning September 1 and shall expire on the following
1279 August 31 unless sooner suspended, revoked, or otherwise
1280 terminated. Category III Liquefied Petroleum Gas Cylinder
1281 Exchange Unit Operator licenses and Dealer in Appliances and
1282 Equipment for Use of Liquefied Petroleum Gas licenses shall be
1283 renewed for the period beginning April 1 and shall expire on the
1284 following March 31 unless sooner suspended, revoked, or
1285 otherwise terminated. Any license allowed to expire ~~on August 31~~
1286 shall become inoperative because of failure to renew. The fee
1287 for restoration of a license is equal to the original license
1288 fee and must be paid before the licensee may resume operations.



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1289 Section 34. Subsection (3) of section 531.415, Florida
 1290 Statutes, is amended to read:
 1291 531.415 Fees.—
 1292 (3) Any ~~petroleum product taxed under s. 525.09 and any~~
 1293 petroleum equipment used to measure petroleum fuel, as defined
 1294 in s. 525.01, owned by a person licensed pursuant to chapter 206
 1295 is exempt from the fees established in this section.

1296 Section 35. Subsection (3) of section 531.61, Florida
 1297 Statutes, is amended to read:

1298 531.61 Exemptions from permit requirement.—Commercial
 1299 weights or measures instruments or devices are exempt from the
 1300 permit requirements of ss. 531.60-531.66 if:

1301 (3) The device is used exclusively for measuring aviation
 1302 fuel or petroleum products inspected ~~taxed~~ under chapter 525 s.
 1303 ~~525.09~~.

1304 Section 36. Section 531.67, Florida Statutes, is created
 1305 to read:

1306 531.67 Expiration of sections.—Sections 531.60, 531.61,
 1307 531.62, 531.63, 531.64, 531.65, and 531.66 shall expire July 1,
 1308 2020.

1309 Section 37. Section 40 of chapter 2009-66, Laws of
 1310 Florida, is repealed.

1311 Section 38. Paragraph (c) of subsection (5) of section
 1312 539.001, Florida Statutes, is amended to read:

1313 539.001 The Florida Pawnbroking Act.—

1314 (5) APPLICATION FOR LICENSE.—

1315 (c) Each initial application for a license must be
 1316 accompanied by a complete set of fingerprints taken by an



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1317 authorized law enforcement officer or a fingerprinting service
 1318 provider approved by the Department of Law Enforcement, \$300 for
 1319 the first year's license fee, and the actual cost to the agency
 1320 for fingerprint analysis for each person subject to the
 1321 eligibility requirements. The agency shall submit the
 1322 fingerprints to the Department of Law Enforcement for state
 1323 processing, and the Department of Law Enforcement shall forward
 1324 the fingerprints to the Federal Bureau of Investigation for a
 1325 national criminal history check. These fees and costs are not
 1326 refundable.

1327 Section 39. Paragraph (b) of subsection (1) of section
 1328 559.802, Florida Statutes, is amended to read:

1329 559.802 Franchises; exemption.—

1330 (1) The sale of a franchise is exempt from this part if:

1331 (b) Before offering for sale or selling a franchise to be
 1332 located in this state or to a resident of this state, the
 1333 franchisor files a notice with the department, on a form adopted
 1334 by the department, stating that the franchisor is in substantial
 1335 compliance with the requirements of the Federal Trade Commission
 1336 rule~~7~~ and pays a fee in an amount set by the department~~7~~ not
 1337 exceeding \$100.

1338 Section 40. Section 559.803, Florida Statutes, is amended
 1339 to read:

1340 559.803 Disclosure statement.—At least 3 working days
 1341 before ~~prior to~~ the time the purchaser signs a business
 1342 opportunity contract, or at least 3 working days before ~~prior to~~
 1343 the receipt of any consideration by the seller, whichever occurs
 1344 first, the seller must provide the prospective purchaser a



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1345 written document, the cover sheet of which is entitled in at
1346 least 12-point boldfaced capital letters "DISCLOSURES REQUIRED
1347 BY FLORIDA LAW." Under this title shall appear the following
1348 statement in at least 10-point type: "The State of Florida has
1349 not reviewed and does not approve, recommend, endorse, or
1350 sponsor any business opportunity. The information contained in
1351 this disclosure has not been verified by the state. If you have
1352 any questions about this investment, see an attorney before you
1353 sign a contract or agreement." Nothing except the title and
1354 required statement shall appear on the cover sheet. Immediately
1355 following the cover sheet, the seller must provide an index page
1356 that briefly lists the contents of the disclosure document as
1357 required in this section and any pages on which the prospective
1358 purchaser can find each required disclosure. At the top of the
1359 index page, the following statement must appear in at least 10-
1360 point type: "The State of Florida requires sellers of business
1361 opportunities to disclose certain information to prospective
1362 purchasers. This index is provided to help you locate this
1363 information." If the index contains other information not
1364 required by this section, the seller shall place a designation
1365 beside each of the disclosures required by this section and
1366 provide an explanation of the designation at the end of the
1367 statement at the top of the index page. The disclosure document
1368 shall contain the following information:

1369 (1) The name of the seller; whether the seller is doing
1370 business as an individual, partnership, corporation, or other
1371 business entity; the names under which the seller has done
1372 business; and the name of any parent or affiliated company that



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1373 will engage in business transactions with the purchasers or who
1374 takes responsibility for statements made by the seller.

1375 (2) The names, addresses, and titles of the seller's
1376 officers, directors, trustees, general partners, general
1377 managers, and principal executives and of any other persons
1378 charged with the responsibility for the seller's business
1379 activities relating to the sale of business opportunities.

1380 (3) The length of time the seller has:

1381 (a) Sold business opportunities; or

1382 (b) Sold business opportunities involving the products,
1383 equipment, supplies, or services currently being offered to the
1384 purchaser.

1385 (4) A full and detailed description of the actual services
1386 that the business opportunity seller undertakes to perform for
1387 the purchaser.

1388 (5) A copy of a current ~~(not older than 13 months)~~
1389 financial statement of the seller that is no older than 13
1390 months, updated to reflect material changes in the seller's
1391 financial condition.

1392 (6) If training is promised by the seller, a complete
1393 description of the training, the length of the training, and the
1394 cost or incidental expenses of that training, including the
1395 ~~which~~ cost or expense the purchaser will be required to incur.

1396 (7) If the seller promises services to be performed in
1397 connection with the placement of the equipment, product, or
1398 supplies at a location, the full nature of those services as
1399 well as the nature of the agreements to be made with the owners
1400 or managers of the location where the purchaser's equipment,



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1401 product, or supplies will be placed.

1402 (8) If the business opportunity seller is required to
1403 secure a bond, guaranteed letter of credit, or certificate of
1404 deposit pursuant to s. 559.807, either of the following
1405 statements:

1406 (a) "As required by Florida law, the seller has secured a
1407 bond issued by, a surety company authorized to do business
1408 in this state. Before signing a contract to purchase this
1409 business opportunity, you should confirm the bond's status with
1410 the surety company."; or

1411 (b) "As required by Florida law, the seller has
1412 established a guaranteed letter of credit or certificate of
1413 deposit ...(number of account)... with ...(name and address of
1414 bank or savings institution).... Before signing a contract to
1415 purchase this business opportunity, you should confirm with the
1416 bank or savings institution the current status of the guaranteed
1417 letter of credit or certificate of deposit."

1418 (9) The following statement: "If the seller fails to
1419 deliver the product, equipment, or supplies necessary to begin
1420 substantial operation of the business within 45 days of the
1421 delivery date stated in your contract, you may notify the seller
1422 in writing and cancel your contract."

1423 (10) If the seller makes any statement concerning sales or
1424 earnings or a range of sales or earnings that may be made
1425 through this business opportunity, a statement disclosing:

1426 (a) The total number of purchasers of business
1427 opportunities involving the product, equipment, supplies, or
1428 services being offered who have actually achieved sales of or



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1429 received earnings in the amount or range specified within 3
1430 years prior to the date of the disclosure statement.

1431 (b) The total number of purchasers of business
1432 opportunities involving the product, equipment, supplies, or
1433 services being offered within 3 years before ~~prior to~~ the date
1434 of the disclosure statement.

1435 (11)(a) The total number of persons who purchased the
1436 business opportunity being offered by the seller within the past
1437 3 years.

1438 (b) The names, addresses, and telephone numbers of the 10
1439 persons who previously purchased the business opportunity from
1440 the seller and who are geographically closest to the potential
1441 purchaser.

1442 (12) A statement disclosing who, if any, of the persons
1443 listed in subsections (1) and (2):

1444 (a) Has, at any time during the previous 10 fiscal years,
1445 regardless of adjudication, been convicted of, or found guilty
1446 of, or pled guilty or nolo contendere to, or has been
1447 incarcerated within the last 10 years as a result of having
1448 previously been convicted of, or found guilty of, or pled guilty
1449 or nolo contendere to, a felony or a crime involving fraud,
1450 theft, larceny, violation of any franchise or business
1451 opportunity law or unfair or deceptive practices law,
1452 embezzlement, fraudulent conversion, misappropriation of
1453 property, or restraint of trade.

1454 (b) Has, at any time during the previous 7 fiscal years,
1455 been held liable in a civil action resulting in a final judgment
1456 or has settled out of court any civil action or is a party to



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1457 any civil action involving allegations of fraud (including
1458 violation of any franchise or business opportunity law or unfair
1459 or deceptive practices law), embezzlement, fraudulent
1460 conversion, misappropriation of property, or restraint of trade
1461 or any civil action which was brought by a present or former
1462 franchisee or franchisees and which involves or involved the
1463 franchise relationship. However, only material individual civil
1464 actions need be so listed pursuant to this paragraph, including
1465 any group of civil actions which, irrespective of the
1466 materiality of any single such action, in the aggregate is
1467 material.

1468 (c) Is subject to any currently effective state or federal
1469 agency or court injunctive or restrictive order, or has been
1470 subject to any administrative action in which an order by a
1471 governmental agency was rendered, or is a party to a proceeding
1472 currently pending in which such order is sought, relating to or
1473 affecting business opportunities activities or the business
1474 opportunity seller-purchaser relationship or involving fraud,
1475 ~~(including violation of any franchise or business opportunity~~
1476 ~~law or unfair or deceptive practices law)~~, embezzlement,
1477 fraudulent conversion, misappropriation of property, or
1478 restraint of trade.

1479
1480 Such statement shall set forth the identity and location of the
1481 court or agency; the date of conviction, judgment, or decision;
1482 the penalty imposed; the damages assessed; the terms of
1483 settlement or the terms of the order; and the date, nature, and
1484 issuer of each such order or ruling. A business opportunity



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1485 seller may include a summary opinion of counsel as to any
 1486 pending litigation, but only if counsel's consent to the use of
 1487 such opinion is included in the disclosure statement.

1488 (13) A statement disclosing who, if any, of the persons
 1489 listed in subsections (1) and (2) at any time during the
 1490 previous 7 fiscal years has:

1491 (a) Filed in bankruptcy.

1492 (b) Been adjudged bankrupt.

1493 (c) Been reorganized due to insolvency.

1494 (d) Been a principal, director, executive officer, or
 1495 partner of any other person that has so filed or was so adjudged
 1496 or reorganized during or within 1 year after the period that
 1497 such person held such position in relation to such other person.
 1498 If so, the name and location of the person having so filed or
 1499 having been so adjudged or reorganized, the date thereof, and
 1500 any other material facts relating thereto shall be set forth.

1501 (14) A copy of the business opportunity contract which the
 1502 seller uses as a matter of course and which is to be presented
 1503 to the purchaser at closing.

1504

1505 ~~Should any seller of business opportunities prepare a disclosure~~
 1506 ~~statement pursuant to 16 C.F.R. ss. 436.1 et seq., a Trade~~
 1507 ~~Regulation Rule of the Federal Trade Commission regarding~~
 1508 ~~Disclosure Requirements and Prohibitions Concerning Franchising~~
 1509 ~~and Business Opportunity Ventures, the seller may file that~~
 1510 ~~disclosure statement in lieu of the document required pursuant~~
 1511 ~~to this section. Should the seller be required pursuant to 16~~
 1512 ~~C.F.R. to prepare any other documents to be presented to the~~



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1513 ~~prospective purchaser, those documents shall also be filed with~~
 1514 ~~the department.~~

1515 Section 41. Section 559.805, Florida Statutes, is
 1516 repealed.

1517 Section 42. Section 559.807, Florida Statutes, is amended
 1518 to read:

1519 559.807 Bond or other security required.—

1520 ~~(1)~~ If the business opportunity seller makes any
 1521 representations set forth in s. 559.801(1)(a)3., the seller must
 1522 either have obtained a surety bond issued by a surety company
 1523 authorized to do business in this state or have established a
 1524 certificate of deposit or a guaranteed letter of credit with a
 1525 licensed and insured bank or savings institution located in the
 1526 state. The amount of the bond, certificate of deposit, or
 1527 guaranteed letter of credit shall be an amount not less than
 1528 \$50,000.

1529 ~~(2) The bond, certificate of deposit, or guaranteed letter~~
 1530 ~~of credit shall be in the favor of the department for the use~~
 1531 ~~and benefit of any person who is injured by the fraud,~~
 1532 ~~misrepresentation, breach of contract, financial failure, or~~
 1533 ~~violation of any provision of this part by the seller. Such~~
 1534 ~~liability may be enforced by filing an action at law in a court~~
 1535 ~~of competent jurisdiction without precluding enforcement in an~~
 1536 ~~administrative action pursuant to chapter 120. However, the~~
 1537 ~~bond, certificate of deposit, or guaranteed letter of credit~~
 1538 ~~shall be amenable and enforceable only by and through~~
 1539 ~~administrative proceedings before the department. A money~~
 1540 ~~judgment resulting from an action at law, less any award for~~



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1541 ~~costs and attorney's fees, shall be prima facie evidence~~
 1542 ~~sufficient to establish the value of the claim in an~~
 1543 ~~administrative action. It is the intent of the Legislature that~~
 1544 ~~such bond, certificate of deposit, or guaranteed letter of~~
 1545 ~~credit shall be applicable and liable only for payment of claims~~
 1546 ~~duly adjudicated by order of the department. The bond,~~
 1547 ~~certificate of deposit, or guaranteed letter of credit shall be~~
 1548 ~~open to successive claims but the aggregate amount may not~~
 1549 ~~exceed the amount of the bond, certificate of deposit, or~~
 1550 ~~guaranteed letter of credit.~~

1551 Section 43. Section 559.813, Florida Statutes, is amended
 1552 to read:

1553 559.813 Remedies; enforcement.—

1554 (1) If a business opportunity seller uses untrue or
 1555 misleading statements in the sale of a business opportunity,
 1556 fails to give the proper disclosures in the manner required by
 1557 this part, or fails to deliver the equipment, supplies, or
 1558 products necessary to begin substantial operation of the
 1559 business within 45 days after ~~of~~ the delivery date stated in the
 1560 business opportunity contract, or if the contract does not
 1561 comply with the requirements of this part, the purchaser may,
 1562 within 1 year after ~~of~~ the date of execution of the contract and
 1563 upon written notice to the seller, rescind the contract and
 1564 shall be entitled to receive from the business opportunity
 1565 seller all sums paid to the business opportunity seller. Upon
 1566 receipt of such sums, the purchaser shall make available to the
 1567 seller at the purchaser's address, or at the places at which
 1568 they are located at the time notice is given, all products,



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1569 equipment, or supplies received by the purchaser. The purchaser
 1570 shall not be entitled to unjust enrichment by exercising the
 1571 remedies provided in this subsection.

1572 ~~(2) (a) The department may enter an order imposing one or~~
 1573 ~~more of the penalties set forth in paragraph (b) if the~~
 1574 ~~department finds that a seller or any of the seller's principal~~
 1575 ~~officers or agents:~~

1576 ~~1. Violated or is operating in violation of any of the~~
 1577 ~~provisions of this part or of the rules adopted or orders issued~~
 1578 ~~thereunder;~~

1579 ~~2. Made a material false statement in any application,~~
 1580 ~~document, or record required to be submitted or retained under~~
 1581 ~~this part;~~

1582 ~~3. Refused or failed, after notice, to produce any~~
 1583 ~~document or record or disclose any information required to be~~
 1584 ~~produced or disclosed under this part or the rules of the~~
 1585 ~~department;~~

1586 ~~4. Made a material false statement in response to any~~
 1587 ~~request or investigation by the department, the Department of~~
 1588 ~~Legal Affairs, or the state attorney; or~~

1589 ~~5. Has intentionally defrauded the public through~~
 1590 ~~dishonest or deceptive means.~~

1591 ~~(b) Upon a finding as set forth in paragraph (a), the~~
 1592 ~~department may enter an order doing one or more of the~~
 1593 ~~following:~~

1594 ~~1. Issuing a notice of noncompliance pursuant to s.~~
 1595 ~~120.695.~~

1596 ~~2. Imposing an administrative fine not to exceed \$5,000~~



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1597 ~~per violation for each act which constitutes a violation of this~~
 1598 ~~part or a rule or order.~~

1599 ~~3. Directing that the seller or its principal officers or~~
 1600 ~~agents cease and desist specified activities.~~

1601 ~~4. Refusing to issue or revoking or suspending an~~
 1602 ~~advertisement identification number.~~

1603 ~~5. Placing the registrant on probation for a period of~~
 1604 ~~time, subject to such conditions as the department may specify.~~

1605 ~~(c) The administrative proceedings which could result in~~
 1606 ~~the entry of an order imposing any of the penalties specified in~~
 1607 ~~paragraph (b) shall be conducted in accordance with chapter 120.~~

1608 (2)~~(3)~~ Any purchaser injured by a violation of this part,
 1609 or by the business opportunity seller's breach of a contract
 1610 subject to this part or any obligation arising therefrom, may
 1611 bring an action for recovery of damages, including reasonable
 1612 attorney ~~attorney's~~ fees.

1613 (3)~~(4)~~ Upon complaint of any person that a business
 1614 opportunity seller has violated ~~the provisions of~~ this part, the
 1615 circuit court shall have jurisdiction to enjoin the defendant
 1616 from further such violations.

1617 (4)~~(5)~~ The Department of Legal Affairs, ~~the Department of~~
 1618 ~~Agriculture and Consumer Services,~~ or the state attorney, is
 1619 a violation of this part occurs in her or his judicial circuit, is
 1620 ~~are~~ the enforcing authority ~~authorities~~ for purposes of this
 1621 part, ~~and they~~ may bring civil actions in circuit court for
 1622 temporary or permanent injunctive relief and may seek other
 1623 appropriate civil relief, including, but not limited to, a civil
 1624 penalty not to exceed \$5,000 for each violation, restitution and



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1625 damages for injured purchasers of business opportunities, and
 1626 court costs and reasonable attorney ~~attorney's~~ fees.

1627 (5)~~(6)~~ Any remedy provided in this section may be
 1628 recovered in an appropriate action, or the enforcing authority
 1629 may terminate any investigation or action upon agreement by the
 1630 offender to pay a ~~as~~ stipulated civil penalty, to make
 1631 restitution or pay damages to purchasers, or to satisfy any
 1632 other relief authorized in this section and requested by the
 1633 enforcing authority.

1634 (6)~~(7)~~ The remedies provided in this section ~~herein~~ shall
 1635 be in addition to any other remedies provided by law or in
 1636 equity.

1637 ~~(8) The department has the authority to adopt rules~~
 1638 ~~pursuant to chapter 120 to implement this part.~~

1639 Section 44. Section 559.815, Florida Statutes, is amended
 1640 to read:

1641 559.815 Penalties.—Any person who ~~fails to file with the~~
 1642 ~~department as required by s. 559.805 or who~~ commits an act
 1643 described in s. 559.809 is guilty of a felony of the third
 1644 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1645 775.084.

1646 Section 45. Paragraph (a) of subsection (1) of section
 1647 559.9221, Florida Statutes, is amended to read:

1648 559.9221 Motor Vehicle Repair Advisory Council.—The Motor
 1649 Vehicle Repair Advisory Council is created to advise and assist
 1650 the department in carrying out this part.

1651 (1) The membership of the council may not exceed nine ~~11~~
 1652 members appointed by the Commissioner of Agriculture.



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1653 (a) Six ~~Eight~~ industry members of the council must be
 1654 chosen from individuals already engaged in the motor vehicle
 1655 repair business who are eligible to be registered under this
 1656 part. The professional members of this council must be licensed
 1657 under this part. The commissioner shall select one industry
 1658 member from each of the following categories:

- 1659 1. Independent automotive mechanics shops.
- 1660 2. Franchise or company-owned automotive mechanics shops.
- 1661 3. ~~Independent~~ Automotive collision shops.
- 1662 4. ~~Franchise or company-owned automotive collision shops.~~
- 1663 4.5. ~~Independent~~ Tire dealer.
- 1664 6. ~~Franchise or company-owned tire dealer.~~
- 1665 5.7. Independent motor vehicle dealer licensed under s.
 1666 320.27.
- 1667 6.8. Franchise motor vehicle dealer licensed under s.
 1668 320.27.

1669 Section 46. Paragraphs (a) and (b) of subsection (9) of
 1670 section 616.242, Florida Statutes, are amended to read:

1671 616.242 Safety standards for amusement rides.—

1672 (9) INSURANCE REQUIREMENTS.—

1673 (a) An owner may not operate an amusement ride unless the
 1674 owner has in effect at all times of operation ~~insurance meeting~~
 1675 ~~the following requirements:~~

- 1676 ~~1.~~ an insurance policy in an amount of at least ~~not less~~
 1677 ~~than~~ \$1 million per occurrence, \$1 million in the aggregate,
 1678 which insures the owner of the amusement ride against liability
 1679 for injury to persons arising out of the use of the amusement
 1680 ride; ~~or~~



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1681 ~~2. A bond in a like amount; however, the aggregate~~
1682 ~~liability of the surety under the bond may not exceed the face~~
1683 ~~amount thereof.~~

1684 (b) The policy ~~or bond~~ must be procured from an insurer ~~or~~
1685 ~~surety~~ that is licensed to transact business in this state or
1686 that is approved as a surplus lines insurer.

1687 Section 47. Subsection (9) is added to section 721.20,
1688 Florida Statutes, to read:

1689 721.20 Licensing requirements; suspension or revocation of
1690 license; exceptions to applicability; collection of advance fees
1691 for listings unlawful.—

1692 (9) A person who meets the definition of a commercial
1693 telephone seller or salesperson as defined in s. 501.603 must be
1694 licensed under part IV of chapter 501 before doing business in
1695 this state under this chapter.

1696 Section 48. If any provision of this act or its
1697 application to any person or circumstance is held invalid, the
1698 invalidity does not affect other provisions or applications of
1699 the act which can be given effect without the invalid provision
1700 or application, and to this end the provisions of this act are
1701 severable.

1702 Section 49. This act shall take effect July 1, 2013.