

By Senator Brandes

22-00816-13

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1 A bill to be entitled
2 An act relating to the deregulation of professions and
3 occupations; amending s. 468.383, F.S.; exempting
4 certain auctioneers who conduct motor vehicle auction
5 contests from licensure; amending s. 468.385, F.S.;
6 deleting licensure requirements for auctioneer
7 apprentices; amending ss. 468.381, 468.384, 468.3855,
8 468.388, and 468.391, F.S., to conform; amending s.
9 477.0132, F.S.; deleting provisions requiring the
10 registration of persons whose occupation or practice
11 is confined solely to hair braiding, hair wrapping, or
12 body wrapping; providing that the Florida Cosmetology
13 Act does not apply to such persons; amending ss.
14 477.019, 477.026, 477.0265, and 477.029, F.S., to
15 conform; repealing part VIII of chapter 559, F.S.,
16 relating to the Sale of Business Opportunities Act and
17 the regulation of certain business opportunities;
18 amending ss. 205.1971, 501.604, and 721.11, F.S.;
19 conforming a cross-reference; providing an effective
20 date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (10) is added to section 468.383,
25 Florida Statutes, to read:

26 468.383 Exemptions.—This act does not apply to the
27 following:

28 (10) Motor vehicle auctions, as defined in s. 320.27,
29 conducted by auctioneers licensed in other states and held for

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30 the purpose of conducting sanctioned contests among auctioneers,
31 if an auctioneer licensed pursuant to this part is on site to
32 monitor the sanctioned contest.

33 Section 2. Subsections (3), (5), (6), (7), and (8) of
34 section 468.385, Florida Statutes, are amended to read:

35 468.385 Licenses required; qualifications; examination.—

36 (3) A ~~No~~ person may not ~~shall~~ be licensed as an auctioneer
37 ~~or apprentice~~ if he or she:

38 (a) Is under 18 years of age; or

39 (b) Has committed any act or offense in this state or any
40 other jurisdiction which would constitute a basis for
41 disciplinary action under s. 468.389.

42 (5) Each apprentice shall work under the supervision of
43 ~~application and license shall name~~ a licensed auctioneer who has
44 agreed to serve as the supervisor of the apprentice. An ~~No~~
45 apprentice may not conduct, or contract to conduct, an auction
46 without the express approval of his or her supervisor. The
47 supervisor shall regularly review the apprentice's records,
48 which are required by the board to be maintained, to determine
49 if such records are accurate and current.

50 (6) A ~~No~~ person may not ~~shall~~ be licensed as an auctioneer
51 unless he or she:

52 (a) ~~Has held an apprentice license and has served as an~~
53 ~~apprentice for 1 year or more, or has completed a course of~~
54 ~~study, consisting of not less than 80 classroom hours of~~
55 ~~instruction, that meets standards adopted by the board;~~

56 (b) Has passed the required examination; and

57 (c) Is approved by the board.

58 (7) (a) Any auction that is subject to ~~the provisions of~~

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59 this part must be conducted by an auctioneer who has an active
 60 license or an apprentice who is actively supervised by a
 61 licensed sponsor ~~has an active apprentice auctioneer license and~~
 62 ~~who has received prior written sponsor consent.~~

63 (b) A ~~No~~ business may not ~~shall~~ auction or offer to auction
 64 any property in this state unless it is licensed as an auction
 65 business by the board or is exempt from licensure under this
 66 act. Each application for licensure shall include the names of
 67 the owner and the business, the business mailing address and
 68 location, and any other information which the board may require.
 69 The owner of an auction business shall report to the board
 70 within 30 days after ~~of~~ any change in this required information.

71 (8) A license issued by the department to an auctioneer,
 72 ~~apprentice,~~ or auction business is not transferable.

73 Section 3. Section 468.381, Florida Statutes, is amended to
 74 read:

75 468.381 Purpose.—The Legislature finds that unqualified
 76 auctioneers ~~and apprentices~~ and unreliable auction businesses
 77 present a significant threat to the public. It is the intent of
 78 the Legislature to protect the public by creating a board to
 79 regulate auctioneers, ~~apprentices,~~ and auction businesses ~~and~~ by
 80 requiring a license to operate.

81 Section 4. Subsection (3) of section 468.384, Florida
 82 Statutes, is amended to read:

83 468.384 Florida Board of Auctioneers.—

84 (3) The board shall receive and act upon applications for
 85 auctioneer, ~~apprentice,~~ and auction business licenses and shall
 86 have the power to issue, suspend, and revoke such licenses and
 87 to take such other action as is necessary to carry out the

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88 provisions of this act.

89 Section 5. Subsections (5) through (10) of section
90 468.3855, Florida Statutes, are amended, and a new subsection
91 (9) is added to that section, to read:

92 468.3855 Apprenticeship training requirements.—

93 ~~(5) Each apprentice and sponsor shall file reports as~~
94 ~~required by board rule.~~

95 (5)~~(6)~~ A sponsor may not authorize an apprentice to conduct
96 an auction or act as principal auctioneer unless the sponsor has
97 determined that the apprentice has received adequate training to
98 do so.

99 (6)~~(7)~~ The sponsor is ~~shall be~~ responsible for any acts or
100 omissions of the apprentice which constitute a violation of law
101 in relation to the conduct of an auction.

102 ~~(8) All apprentice applications shall be valid for a period~~
103 ~~of 6 months after board approval. Any applicant who fails to~~
104 ~~complete the licensure process within that time shall be~~
105 ~~required to make application as a new applicant.~~

106 (7)~~(9)~~ Any ~~licensed~~ apprentice who wishes to change the
107 sponsor under whom he or she is supervised ~~licensed must submit~~
108 ~~a new application and application fee. However, a new license~~
109 ~~fee shall not be required and credit shall be awarded~~ credit for
110 training received or any period of apprenticeship served under
111 the previous sponsor.

112 (8)~~(10)~~ Credit for training received or any period of
113 apprenticeship served is ~~shall not be~~ allowed unless it occurred
114 under the supervision of the sponsor ~~under whose supervision the~~
115 ~~apprentice is licensed.~~

116 (9) An apprentice must submit verification of his or her

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117 apprenticeship signed by the sponsors on a form prescribed by
118 the department at the time of submitting the application for an
119 auctioneer license.

120 Section 6. Subsection (4) and paragraph (b) of subsection
121 (11) of section 468.388, Florida Statutes, are amended to read:
122 468.388 Conduct of an auction.—

123 (4) Each auction must be conducted by an auctioneer who has
124 an active license or by an apprentice ~~who has an active~~
125 ~~apprentice auctioneer license and~~ who has received prior written
126 sponsor consent. Each auction must be conducted under the
127 auspices of a licensed auction business. Any auctioneer or
128 apprentice auctioneer conducting an auction, and any auction
129 business under whose auspices such auction is held, shall be
130 responsible for determining that any auctioneer, apprentice, or
131 auction business with whom they are associated in conducting
132 such auction has an active Florida auctioneer, ~~apprentice,~~ or
133 auction business license.

134 (11)

135 (b) ~~A~~ Not licensed auctioneer, licensed apprentice, or
136 auction business, or apprentice may not disseminate or cause to
137 be disseminated any advertisement or advertising which is false,
138 deceptive, misleading, or untruthful. Any advertisement or
139 advertising is ~~shall be deemed to be~~ false, deceptive,
140 misleading, or untruthful if it:

141 1. Contains misrepresentations of facts.

142 2. Is misleading or deceptive because, in its content or in
143 the context in which it is presented, it makes only a partial
144 disclosure of relevant facts.

145 3. Creates false or unjustified expectations of the

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146 services to be performed.

147 4. Contains any representation or claim which the
148 advertising licensee fails to perform.

149 5. Fails to include the name and license number of the
150 principal auctioneer and the auction business.

151 6. Fails to include the name and license number of the
152 sponsor if an apprentice is acting as the principal auctioneer.

153 7. Advertises an auction as absolute without specifying any
154 and all items to be sold with reserve or with minimum bids.

155 8. Fails to include the percentage amount of any buyer's
156 premium or surcharge which is a condition to sale.

157 Section 7. Section 468.391, Florida Statutes, is amended to
158 read:

159 468.391 Penalty.—Any auctioneer, apprentice, or auction
160 business or any owner or manager thereof, or, in the case of
161 corporate ownership, any substantial stockholder of the
162 corporation owning the auction business, who operates without an
163 active license or written sponsorship consent or violates s.
164 468.389(1)(c), (e), (f), (h), or (i) commits a felony of the
165 third degree, punishable as provided in s. 775.082 or s.
166 775.083.

167 Section 8. Section 477.0132, Florida Statutes, is amended
168 to read:

169 (Substantial rewording of section. See
170 s. 477.0132, F.S., for present text.)

171 477.0132 Hair braiding, hair wrapping, and body wrapping;
172 application of chapter.—This chapter does not apply to a person
173 whose occupation or practice is confined solely to hair
174 braiding, hair wrapping, or body wrapping.

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175 Section 9. Subsection (7) of section 477.019, Florida
176 Statutes, is amended to read:

177 477.019 Cosmetologists; qualifications; licensure;
178 supervised practice; license renewal; endorsement; continuing
179 education.—

180 (7) (a) The board shall prescribe by rule continuing
181 education requirements intended to ensure protection of the
182 public through updated training of licensees and registered
183 specialists, not to exceed 16 hours biennially, as a condition
184 for renewal of a license or registration as a specialist under
185 this chapter. Continuing education courses shall include, but is
186 not ~~be~~ limited to, the following subjects as they relate to the
187 practice of cosmetology: human immunodeficiency virus and
188 acquired immune deficiency syndrome; Occupational Safety and
189 Health Administration regulations; workers' compensation issues;
190 state and federal laws and rules as they pertain to
191 cosmetologists, cosmetology, salons, specialists, specialty
192 salons, and booth renters; chemical makeup as it pertains to
193 hair, skin, and nails; and environmental issues. Courses given
194 at cosmetology conferences may be counted toward the number of
195 continuing education hours required if approved by the board.

196 ~~(b) Any person whose occupation or practice is confined~~
197 ~~solely to hair braiding, hair wrapping, or body wrapping is~~
198 ~~exempt from the continuing education requirements of this~~
199 ~~subsection.~~

200 (b)(e) The board may, by rule, require any licensee in
201 violation of a continuing education requirement to take a
202 refresher course or refresher course and examination in addition
203 to any other penalty. The number of hours for the refresher

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204 course may not exceed 48 hours.

205 Section 10. Paragraph (f) of subsection (1) of section
206 477.026, Florida Statutes, is amended to read:

207 477.026 Fees; disposition.—

208 (1) The board shall set fees according to the following
209 schedule:

210 ~~(f) For hair braiders, hair wrappers, and body wrappers,~~
211 ~~fees for registration shall not exceed \$25.~~

212 Section 11. Paragraph (f) of subsection (1) of section
213 477.0265, Florida Statutes, is amended to read:

214 477.0265 Prohibited acts.—

215 (1) It is unlawful for any person to:

216 (f) Advertise or imply that skin care services ~~or body~~
217 ~~wrapping~~, as performed under this chapter, have any relationship
218 to the practice of massage therapy as defined in s. 480.033(3),
219 except those practices or activities defined in s. 477.013.

220 Section 12. Paragraph (a) of subsection (1) of section
221 477.029, Florida Statutes, is amended to read:

222 477.029 Penalty.—

223 (1) It is unlawful for any person to:

224 (a) Hold himself or herself out as a cosmetologist or ~~r~~
225 ~~specialist, hair wrapper, hair braider, or body wrapper~~ unless
226 duly licensed or registered, or otherwise authorized, as
227 provided in this chapter.

228 Section 13. Part VIII of chapter 559, Florida Statutes,
229 consisting of sections 559.80, 559.801, 559.802, 559.803,
230 559.805, 559.807, 559.809, 559.811, 559.813, and 559.815,
231 Florida Statutes, is repealed.

232 Section 14. Section 205.1971, Florida Statutes, is amended

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233 to read:

234 205.1971 Sellers of travel; consumer protection.—A county
235 or municipality may not issue or renew a business tax receipt to
236 engage in business as a seller of travel pursuant to part X ~~XI~~
237 of chapter 559 unless such business exhibits a current
238 registration or letter of exemption from the Department of
239 Agriculture and Consumer Services.

240 Section 15. Subsection (20) of section 501.604, Florida
241 Statutes, is amended to read:

242 501.604 Exemptions.—The provisions of this part, except ss.
243 501.608 and 501.616(6) and (7), do not apply to:

244 (20) A person who is registered pursuant to part X ~~XI~~ of
245 chapter 559 and who is soliciting within the scope of the
246 registration.

247 Section 16. Paragraph (d) of subsection (3) of section
248 721.11, Florida Statutes, is amended to read:

249 721.11 Advertising materials; oral statements.—

250 (3) The term "advertising material" does not include:

251 (d) Any audio, written, or visual publication or material
252 relating to the promotion of the availability of any
253 accommodations or facilities, or both, for transient rental,
254 including any arrangement governed by part X ~~XI~~ of chapter 559,
255 so long as a mandatory tour of a timeshare plan or attendance at
256 a mandatory sales presentation is not a term or condition of the
257 availability of such accommodations or facilities, or both, and
258 so long as the failure of any transient renter to take a tour of
259 a timeshare plan or attend a sales presentation does not result
260 in the transient renter receiving less than what was promised to
261 the transient renter in such materials.

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Section 17. This act shall take effect July 1, 2013.