

By the Committee on Regulated Industries; and Senator Brandes

580-02839-13

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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 for a study
20 and report to the Legislature by the Office of Program
21 Policy Analysis and Government Accountability;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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

28 468.383 Exemptions.—This act does not apply to the
29 following:

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30 (10) Motor vehicle auctions, as defined in s. 320.27,
31 conducted by auctioneers licensed in other states and held for
32 the purpose of conducting sanctioned contests among auctioneers,
33 if an auctioneer licensed pursuant to this part is on site to
34 monitor the sanctioned contest.

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

37 468.385 Licenses required; qualifications; examination.—

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

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

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

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

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

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

58 (b) Has passed the required examination; and

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59 (c) Is approved by the board.

60 (7) (a) Any auction that is subject to ~~the provisions of~~
61 this part must be conducted by an auctioneer who has an active
62 license or an apprentice who is actively supervised by a
63 licensed sponsor ~~has an active apprentice auctioneer license and~~
64 ~~who has received prior written sponsor consent.~~

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

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

75 Section 3. Section 468.381, Florida Statutes, is amended to
76 read:

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

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

85 468.384 Florida Board of Auctioneers.—

86 (3) The board shall receive and act upon applications for
87 auctioneer, ~~apprentice,~~ and auction business licenses and shall

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88 have the power to issue, suspend, and revoke such licenses and
89 to take such other action as is necessary to carry out the
90 provisions of this act.

91 Section 5. Subsections (5) through (10) of section
92 468.3855, Florida Statutes, are amended, and a new subsection
93 (9) is added to that section, to read:

94 468.3855 Apprenticeship training requirements.—

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

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

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

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

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

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

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117 ~~apprentice is licensed.~~

118 (9) An apprentice must submit verification of his or her
119 apprenticeship signed by the sponsors on a form prescribed by
120 the department at the time of submitting the application for an
121 auctioneer license.

122 Section 6. Subsection (4) and paragraph (b) of subsection
123 (11) of section 468.388, Florida Statutes, are amended to read:
124 468.388 Conduct of an auction.—

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

136 (11)

137 (b) A ~~No~~ licensed auctioneer, licensed apprentice, ~~or~~
138 auction business, or apprentice may not disseminate or cause to
139 be disseminated any advertisement or advertising which is false,
140 deceptive, misleading, or untruthful. Any advertisement or
141 advertising is ~~shall be deemed to be~~ false, deceptive,
142 misleading, or untruthful if it:

143 1. Contains misrepresentations of facts.

144 2. Is misleading or deceptive because, in its content or in
145 the context in which it is presented, it makes only a partial

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146 disclosure of relevant facts.

147 3. Creates false or unjustified expectations of the
148 services to be performed.

149 4. Contains any representation or claim which the
150 advertising licensee fails to perform.

151 5. Fails to include the name and license number of the
152 principal auctioneer and the auction business.

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

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

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

159 Section 7. Section 468.391, Florida Statutes, is amended to
160 read:

161 468.391 Penalty.—Any auctioneer, apprentice, or auction
162 business or any owner or manager thereof, or, in the case of
163 corporate ownership, any substantial stockholder of the
164 corporation owning the auction business, who operates without an
165 active license or written sponsorship consent or violates s.
166 468.389(1)(c), (e), (f), (h), or (i) commits a felony of the
167 third degree, punishable as provided in s. 775.082 or s.
168 775.083.

169 Section 8. Section 477.0132, Florida Statutes, is amended
170 to read:

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

173 477.0132 Hair braiding, hair wrapping, and body wrapping;
174 application of chapter.—This chapter does not apply to a person

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175 whose occupation or practice is confined solely to hair
176 braiding, hair wrapping, or body wrapping.

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

179 477.019 Cosmetologists; qualifications; licensure;
180 supervised practice; license renewal; endorsement; continuing
181 education.—

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

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

202 (b) (e) The board may, by rule, require any licensee in
203 violation of a continuing education requirement to take a

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204 refresher course or refresher course and examination in addition
205 to any other penalty. The number of hours for the refresher
206 course may not exceed 48 hours.

207 Section 10. Paragraph (f) of subsection (1) of section
208 477.026, Florida Statutes, is amended to read:

209 477.026 Fees; disposition.—

210 (1) The board shall set fees according to the following
211 schedule:

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

214 Section 11. Paragraph (f) of subsection (1) of section
215 477.0265, Florida Statutes, is amended to read:

216 477.0265 Prohibited acts.—

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

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

222 Section 12. Paragraph (a) of subsection (1) of section
223 477.029, Florida Statutes, is amended to read:

224 477.029 Penalty.—

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

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

230 Section 13. Part VIII of chapter 559, Florida Statutes,
231 consisting of sections 559.80, 559.801, 559.802, 559.803,
232 559.805, 559.807, 559.809, 559.811, 559.813, and 559.815,

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233 Florida Statutes, is repealed.

234 Section 14. Section 205.1971, Florida Statutes, is amended
235 to read:

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

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

244 501.604 Exemptions.—The provisions of this part, except ss.
245 501.608 and 501.616(6) and (7), do not apply to:

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

249 Section 16. Paragraph (d) of subsection (3) of section
250 721.11, Florida Statutes, is amended to read:

251 721.11 Advertising materials; oral statements.—

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

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

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262 in the transient renter receiving less than what was promised to
263 the transient renter in such materials.

264 Section 17. The Office of Program Policy Analysis and
265 Government Accountability shall review all regulated or licensed
266 businesses and professions under the jurisdiction of the
267 Department of Business and Professional Regulation and shall
268 submit a report to the President of the Senate and the Speaker
269 of the House of Representatives by January 1, 2014. The report
270 must include a description of the current regulatory scheme for
271 each business or profession, and a discussion of the
272 feasibility, if any, of and recommendations for changing from
273 the current licensure system to a self-regulating system that
274 includes a minimum standard of insurance or bond requirements
275 for each regulated business or profession.

276 Section 18. This act shall take effect July 1, 2013.