

By Senator Detert

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1                                   A bill to be entitled  
2       An act relating to the Department of Agriculture and  
3       Consumer Services; amending s. 493.6108, F.S.;  
4       removing the requirement that an applicant for private  
5       investigative, private security, and repossession  
6       services provide a written statement by a fingerprint  
7       technician or licensed physician under certain  
8       conditions; amending s. 493.6113, F.S.; revising  
9       recertification training requirements for Class "G"  
10      licensees; amending s. 493.6115, F.S.; adding specific  
11      handguns to the list of firearms a Class "G" licensee  
12      may carry while performing his or her duties; amending  
13      s. 493.6305, F.S.; authorizing specified Class "D"  
14      licensees to carry an authorized concealed firearm  
15      under certain circumstances; amending s. 501.016,  
16      F.S.; requiring a health studio to maintain a bond in  
17      favor of the department, rather than the state;  
18      authorizing liability for specified injuries to be  
19      determined in an administrative proceeding or through  
20      a civil action; providing that certain claims may be  
21      paid only upon an order of the department issued in an  
22      administrative proceeding; requiring that a claim  
23      against the bond be filed on a form affidavit adopted  
24      by rule of the department; providing the process by  
25      which a consumer may file a claim against a bond or  
26      other form of security; requiring a health studio to  
27      pay the department indebtedness determined by final  
28      order within 30 days; providing the process by which  
29      the department may make a demand if the health studio

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30 fails to timely make the payment; providing that the  
31 department shall be awarded attorney fees and costs in  
32 certain circumstances; repealing ss. 501.057,  
33 501.0571, 501.0573, 501.0575, 501.0577, 501.0579, and  
34 501.0581, F.S., relating to the Commercial Weight-Loss  
35 Practices Act; repealing s. 501.0583, F.S., relating  
36 to selling, delivering, bartering, furnishing, or  
37 giving weight-loss pills to persons younger than 18  
38 years of age and related penalties and defense;  
39 amending s. 501.059, F.S.; prohibiting a telephone  
40 solicitor or a person from initiating an outbound  
41 telephone call to a consumer, a donor, or a potential  
42 donor under certain circumstances; repealing s.  
43 501.143, F.S., relating to the Dance Studio Act;  
44 amending s. 501.603, F.S.; defining the term "novelty  
45 payment"; conforming a cross-reference; amending s.  
46 501.611, F.S.; requiring the bond required of a  
47 commercial telephone seller to be in favor of the  
48 department for the use and benefit of a purchaser who  
49 is injured by specified acts; requiring that a claim  
50 against the bond be filed on a form affidavit adopted  
51 by rule of the department; providing procedures that a  
52 purchaser must follow in filing a claim against the  
53 bond or other form of security; providing for payment  
54 of indebtedness by the commercial telephone seller to  
55 the department; requiring the department to make  
56 demand on a surety if a commercial telephone seller  
57 fails to pay certain indebtedness within 30 days and  
58 providing a process; providing that attorney fees and

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59 costs must be awarded to the department in certain  
60 circumstances; conforming provisions to changes made  
61 by the act; amending s. 501.616, F.S.; prohibiting a  
62 commercial telephone seller or salesperson from  
63 accepting a novelty payment; deleting a provision that  
64 prohibits a commercial telephone seller or salesperson  
65 from requiring payment to be made by credit card;  
66 amending s. 501.913, F.S.; providing that the  
67 registration certificate for each brand of antifreeze  
68 distributed in this state expires 1 year from the date  
69 of issue; amending s. 525.16, F.S.; requiring all  
70 previous fines to be disregarded if a new violation of  
71 provisions relating to gasoline and oil inspections  
72 has not occurred within 3 years after the date of a  
73 previous violation; creating s. 526.015, F.S.,  
74 relating to lubricating oil standards and labeling  
75 requirements; prohibiting a person from selling,  
76 distributing, or offering for sale or distribution  
77 lubricating oil that does not meet specified standards  
78 or labeling requirements; requiring such noncompliant  
79 products to be placed under a stop-sale order and the  
80 lot identified and tagged by the department;  
81 prohibiting a person from selling, distributing, or  
82 offering for sale or distribution a product under  
83 stop-sale order; requiring the department to issue a  
84 release order under certain circumstances; repealing  
85 s. 526.50(6), F.S., relating to definition of terms  
86 related to the sale of brake fluid; amending s.  
87 526.51, F.S.; providing that a permit authorizing a

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88 registrant to sell brake fluid in this state is valid  
89 for a specified period from the date of issue;  
90 conforming provisions to changes made by the act;  
91 amending s. 539.001, F.S.; requiring that a claim  
92 against the bond be filed on a form affidavit adopted  
93 by rule of the department; providing the procedure  
94 that a consumer must follow in filing a claim against  
95 a bond or other form of security filed with the  
96 department by a pawnbroker; providing for payment of  
97 indebtedness by the pawnbroker to the department;  
98 providing the procedure that a consumer must follow if  
99 the pawnbroker fails to make the payment; providing  
100 that the agency shall be awarded attorney fees and  
101 costs in certain circumstances; requiring the weight  
102 of a precious metal to be obtained from a device that  
103 meets specified requirements; amending s. 559.929,  
104 F.S.; requiring that a claim against the bond be filed  
105 on a form affidavit adopted by rule of the department;  
106 providing the procedure that a consumer must follow in  
107 filing a claim against a bond or other form of  
108 security filed with the department by a seller of  
109 travel; providing for payment of indebtedness by the  
110 seller of travel to the department; providing  
111 procedures that the agency must follow if the seller  
112 of travel fails to pay certain indebtedness within 30  
113 days and providing a process; providing that the  
114 agency shall be awarded attorney fees and costs in  
115 certain circumstances; amending s. 570.07, F.S.;

116 revising the duties of the department to include

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117 specified notification procedures by the Division of  
118 Licensing when an administrative complaint is served  
119 on a licensee; amending s. 943.059, F.S.; providing an  
120 exception relating to the acknowledgement of arrests  
121 covered by a sealed criminal history record for a  
122 person seeking to be licensed to carry a concealed  
123 weapon or concealed firearm; providing applicability;  
124 amending ss. 205.1969 and 501.015, F.S.; conforming  
125 cross-references; providing an effective date.  
126

127 Be It Enacted by the Legislature of the State of Florida:  
128

129 Section 1. Paragraph (a) of subsection (1) of section  
130 493.6108, Florida Statutes, is amended to read:

131 493.6108 Investigation of applicants by Department of  
132 Agriculture and Consumer Services.—

133 (1) Except as otherwise provided, the department must  
134 investigate an applicant for a license under this chapter before  
135 it may issue the license. The investigation must include:

136 (a)1. An examination of fingerprint records and police  
137 records. If a criminal history record check of an ~~any~~ applicant  
138 under this chapter is performed by means of fingerprint  
139 identification, the time limitations prescribed by s. 120.60(1)  
140 shall be tolled while ~~during the time~~ the applicant's  
141 fingerprints are under review by the Department of Law  
142 Enforcement or the United States Department of Justice, Federal  
143 Bureau of Investigation.

144 2. If a legible set of fingerprints, as determined by the  
145 Department of Law Enforcement or the Federal Bureau of

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146 Investigation, cannot be obtained after two attempts, the  
147 Department of Agriculture and Consumer Services may determine  
148 the applicant's eligibility based on ~~upon~~ a Department of Law  
149 Enforcement criminal history record check under the applicant's  
150 name ~~conducted by the Department of Law Enforcement if the~~  
151 ~~fingerprints are taken by a law enforcement agency or the~~  
152 ~~department and the applicant submits a written statement signed~~  
153 ~~by the fingerprint technician or a licensed physician stating~~  
154 ~~that there is a physical condition that precludes obtaining a~~  
155 ~~legible set of fingerprints or that the fingerprints taken are~~  
156 ~~the best that can be obtained.~~

157 Section 2. Paragraph (b) of subsection (3) of section  
158 493.6113, Florida Statutes, is amended to read:

159 493.6113 Renewal application for licensure.-

160 (3) Each licensee is responsible for renewing his or her  
161 license on or before its expiration by filing with the  
162 department an application for renewal accompanied by payment of  
163 the prescribed license fee.

164 (b) Each Class "G" licensee shall additionally submit proof  
165 that he or she has received during each year of the license  
166 period a minimum of 4 hours of firearms recertification training  
167 taught by a Class "K" licensee and has complied with such other  
168 health and training requirements that ~~which~~ the department  
169 adopts ~~shall adopt~~ by rule. Proof of completion of firearms  
170 recertification training shall be submitted to the department  
171 upon completion of the training. If the licensee fails to  
172 complete the required 4 hours of annual training during  
173 ~~documentation of completion of the required training is not~~  
174 ~~submitted by the end of the first year of the 2-year term of the~~

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175 license, the individual's license shall be automatically  
176 ~~suspended until proof of the required training is submitted to~~  
177 ~~the department. The licensee must complete the minimum number of~~  
178 ~~hours of range and classroom training required at the time of~~  
179 ~~initial licensure and submit proof of having completed such~~  
180 ~~training to the department before the license may be reinstated.~~  
181 ~~If the licensee fails to complete the required 4 hours of annual~~  
182 ~~training during documentation of completion of the required~~  
183 ~~training is not submitted by the end of the second year of the~~  
184 ~~2-year term of the license, the licensee must complete the~~  
185 ~~minimum number of hours of range and classroom training required~~  
186 ~~at the time of initial licensure and submit proof of having~~  
187 ~~completed such training to the department before the license may~~  
188 ~~shall not be renewed unless the renewal applicant completes the~~  
189 ~~minimum number of hours of range and classroom training required~~  
190 ~~at the time of initial licensure. The department may waive the~~  
191 firearms training requirement if:

192 1. The applicant provides proof that he or she is currently  
193 certified as a law enforcement officer or correctional officer  
194 under the Criminal Justice Standards and Training Commission and  
195 has completed law enforcement firearms requalification training  
196 annually during the previous 2 years of the licensure period;

197 2. The applicant provides proof that he or she is currently  
198 certified as a federal law enforcement officer and has received  
199 law enforcement firearms training administered by a federal law  
200 enforcement agency annually during the previous 2 years of the  
201 licensure period; or

202 3. The applicant submits a valid firearm certificate among  
203 those specified in s. 493.6105(6) (a) and provides proof of

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204 having completed requalification training during the previous 2  
205 years of the licensure period.

206 Section 3. Subsection (6) of section 493.6115, Florida  
207 Statutes, is amended to read:

208 493.6115 Weapons and firearms.—

209 (6) In addition to any other firearm approved by the  
210 department, a licensee who has been issued a Class "G" license  
211 may carry a .38 caliber revolver; ~~or~~ a .380 caliber or 9  
212 millimeter semiautomatic pistol; ~~or~~ a .357 caliber revolver with  
213 .38 caliber ammunition only; a .40 caliber handgun; or a .45 ACP  
214 handgun while performing duties authorized under this chapter. A  
215 ~~No~~ licensee may not carry more than two firearms upon her or his  
216 person when performing her or his duties. A licensee may only  
217 carry a firearm of the specific type and caliber with which she  
218 or he is qualified pursuant to the firearms training described  
219 ~~referenced~~ in subsection (8) or s. 493.6113(3)(b).

220 Section 4. Subsection (4) is added to section 493.6305,  
221 Florida Statutes, to read:

222 493.6305 Uniforms, required wear; exceptions.—

223 (4) Class "D" licensees who are also Class "G" licensees  
224 and who are performing bodyguard or executive protection  
225 services may carry their authorized firearm concealed while  
226 wearing plain clothes as needed to provide contracted services  
227 to the client.

228 Section 5. Section 501.016, Florida Statutes, is amended to  
229 read:

230 501.016 Health studios; security requirements.—Each health  
231 studio that sells contracts for health studio services shall  
232 meet the following requirements:



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233 (1) Each health studio shall maintain for each separate  
234 business location a bond issued by a surety company admitted to  
235 do business in this state. The principal sum of the bond must  
236 ~~shall~~ be \$25,000, and the bond, when required, must ~~shall~~ be  
237 obtained before a business tax receipt may be issued under  
238 chapter 205. Upon issuance of a business tax receipt, the  
239 licensing authority shall immediately notify the department of  
240 such issuance in a manner established by the department by rule.  
241 The bond must ~~shall~~ be in favor of the department ~~state~~ for the  
242 benefit of any person injured as a result of a violation of ss.  
243 501.012-501.019. Liability for such injuries may be determined  
244 in an administrative proceeding of the department pursuant to  
245 chapter 120 or through a civil action. However, claims against  
246 the bond or certificate of deposit may be paid, in amounts up to  
247 the determined liability for such injuries, only by order of the  
248 department in an administrative proceeding pursuant to chapter  
249 120. The aggregate liability of the surety to all persons for  
250 all breaches of the conditions of the bonds provided by this  
251 section may not ~~herein shall in no event~~ exceed the amount of  
252 the bond. The original surety bond required by this section  
253 shall be filed with the department on a form adopted by  
254 department rule.

255 (2) In lieu of maintaining the bond required in subsection  
256 (1), the health studio may furnish to the department on a form  
257 adopted by department rule:

258 (a) An irrevocable letter of credit from any foreign or  
259 domestic bank in the amount of \$25,000; or

260 (b) A guaranty agreement that is secured by a certificate  
261 of deposit in the amount of \$25,000.

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263 The original letter of credit or certificate of deposit  
264 submitted in lieu of the bond shall be filed with the  
265 department. The department shall decide whether the security  
266 furnished in lieu of bond by the health studio complies ~~is in~~  
267 ~~compliance~~ with the requirements of this section.

268 (3) A consumer may file a claim against the bond or other  
269 form of security. Such claim must be submitted to the department  
270 in writing on a form affidavit approved by department rule  
271 within 120 days after an alleged injury has occurred or is  
272 discovered to have occurred or a judgment has been entered. The  
273 proceedings shall be conducted in accordance with chapter 120.  
274 For proceedings conducted under ss. 120.569 and 120.57, the  
275 department may act only as a nominal party.

276 (4) The health studio shall pay to the department for  
277 distribution to the consumer any indebtedness determined by  
278 final order of the department within 30 days after the order is  
279 entered. If the health studio fails to make timely payment, the  
280 department shall make demand upon the surety, which may include  
281 an institution issuing a letter of credit or depository on a  
282 certificate of deposit. If a surety fails to comply with a  
283 demand for payment issued pursuant to a final order, the  
284 department may file an action in circuit court pursuant to s.  
285 120.69 to recover payment up to the amount of the bond or other  
286 form of security. If the court affirms the department's demand  
287 for payment from the surety, the department shall be awarded  
288 court costs and reasonable attorney fees.

289 (5)~~(3)~~ A health studio that ~~which~~ sells contracts for  
290 future health studio services and ~~which~~ collects direct payment

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291 on a monthly basis for those services is ~~shall be~~ exempt from  
292 the security requirements of subsections (1) and (2) if provided  
293 ~~that~~ any service fee charged is a reasonable and fair ~~service~~  
294 ~~fee~~. The number of monthly payments in such a contract must  
295 ~~shall~~ be equal to the number of months in the contract. The  
296 contract must ~~shall~~ conform to all the requirements for future  
297 health studio services contracts ~~as~~ specified in ss. 501.012-  
298 501.019 and must ~~shall~~ specify in the terms of the contract the  
299 charges to be assessed for those health studio services.

300 (6)~~(4)~~ If the health studio furnishes the department with  
301 evidence satisfactory to the department that the aggregate  
302 dollar amount of all current outstanding contracts of the health  
303 studio is less than \$5,000, the department may, ~~at its~~  
304 ~~discretion~~, reduce the principal amount of the surety bond or  
305 other sufficient financial responsibility required in  
306 subsections (1) and (2) to a sum of at least ~~not less than~~  
307 \$10,000. However, at any time the aggregate dollar amount of  
308 such contracts exceeds \$5,000, the health studio shall ~~so~~ notify  
309 the department and shall ~~thereupon~~ provide the bond or other  
310 documentation as required in subsections (1) and (2). Health  
311 studios whose bonds have been reduced shall ~~must~~ provide the  
312 department with an annually updated list of members. ~~Failure to~~  
313 ~~file an annual report will result in~~ The department shall  
314 increase ~~raising~~ the security requirement to \$25,000 for a  
315 health studio that fails to file an annual report.

316 (7)~~(5)~~ Each health studio shall furnish the department with  
317 a copy of the escrow account which would contain all funds  
318 received for future consumer services, whether provided under ~~by~~  
319 contract or otherwise, sold before ~~prior to~~ the business

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320 location's full operation and specify a date certain for  
321 opening, if such an escrow account is established.

322 (8)~~(6)~~ Subsections (1) and (2) do shall not apply to a  
323 health studio that has been operating in compliance with ss.  
324 501.012-501.019 and rules adopted thereunder, continuously under  
325 the same ownership and control, continuously for the most recent  
326 5-year period; ~~in compliance with ss. 501.012-501.019 and the~~  
327 ~~rules adopted thereunder and~~ that has not had any civil,  
328 criminal, or administrative adjudication against it by any state  
329 or federal agency; and that has a satisfactory consumer  
330 complaint history. As used in this subsection, the term  
331 "satisfactory consumer complaint history" means that there are  
332 no unresolved consumer complaints regarding the health studio  
333 ~~are~~ on file with the department. A consumer complaint is  
334 unresolved if a health studio has not responded to the  
335 department's efforts to mediate the complaint or if there has  
336 been an adjudication that the health studio has violated ss.  
337 501.012-501.019 or the rules adopted thereunder. Such exemption  
338 extends to all current and future business locations of an  
339 exempt health studio.

340 (9)~~(7)~~ This section does not apply to a business, otherwise  
341 defined as a health studio, which sells a single contract of 30  
342 days or less to a ~~any~~ member without any option for renewal or  
343 any other condition that ~~which~~ establishes any right in the  
344 member beyond the term of such contract ~~is exempt from the~~  
345 ~~provisions of this section.~~ However, this exemption does shall  
346 not apply if the business offers any other health studio  
347 contract, regardless of whatever duration, at any time before or  
348 ~~or prior to~~ the existence of such single contract of 30

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349 days or less.

350 (10)~~(8)~~ Except in the case of a natural disaster or an act  
351 of God, a health studio that is exempt from the requirements of  
352 subsections (1) and (2), but does not have any ~~that has no~~  
353 business locations open for 14 consecutive days, waives its  
354 exemption and is considered to be a new health studio for the  
355 purposes of ss. 501.012-501.019.

356 Section 6. Sections 501.057, 501.0571, 501.0573, 501.0575,  
357 501.0577, 501.0579, and 509.0581, Florida Statutes, are  
358 repealed.

359 Section 7. Section 501.0583, Florida Statutes, is repealed.

360 Section 8. Subsection (5) of section 501.059, Florida  
361 Statutes, is amended to read:

362 501.059 Telephone solicitation.—

363 (5) A telephone solicitor or person may not initiate an  
364 outbound telephone call to a consumer, donor, or potential donor  
365 who has previously communicated to the telephone solicitor or  
366 person that he or she does not wish to receive an outbound  
367 telephone call:

368 (a) Made by or on behalf of the seller whose goods or  
369 services are being offered; or

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

372 Section 9. Section 501.143, Florida Statutes, is repealed.

373 Section 10. Present subsections (8) through (11) of section  
374 501.603, Florida Statutes, are redesignated as subsections (9)  
375 through (12), respectively, a new subsection (8) is added to  
376 that section, and subsection (2) of that section is amended, to  
377 read:

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378 501.603 Definitions.—As used in this part, unless the  
379 context otherwise requires, the term:

380 (2) "Commercial telephone seller" means a person who  
381 engages in commercial telephone solicitation on his or her own  
382 behalf or through salespersons. The term, except that a  
383 ~~commercial telephone seller~~ does not include a salesperson as  
384 defined in subsection (11) or a person or entity operating under  
385 a valid affidavit of exemption filed with the department  
386 according to s. 501.608(1)(b) or exempted from this part by s.  
387 501.604. The term ~~A commercial telephone seller does not include~~  
388 ~~a salesperson as defined in subsection (10). A commercial~~  
389 ~~telephone seller~~ includes, but is not limited to, owners,  
390 operators, officers, directors, partners, or other individuals  
391 engaged in the management activities of a business entity  
392 pursuant to this part.

393 (8) "Novelty payment" means a payment method that does not  
394 provide a means of systematic monitoring to detect and deter  
395 fraud. The term includes, but is not limited to, the following  
396 payment devices:

397 (a) A remotely created check, which is a check that is not  
398 created by the paying bank and that does not bear the signature  
399 of the person on whose account the check is drawn.

400 (b) A remotely created payment order, which is a payment  
401 instruction or order drawn on a person's account which is  
402 initiated or created by the payee and which does not bear the  
403 signature of the person on whose account the order is drawn and  
404 which is cleared through the check clearing system.

405 (c) A cash-to-cash money transfer, which is the electronic  
406 transfer of the value of cash received from one person to

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407 another person in a different location which is sent by a money  
408 transfer provider and received in the form of cash. As used in  
409 this paragraph, the term "money transfer provider" means a  
410 person or financial institution that provides cash-to-cash money  
411 transfers for a person in the normal course of business,  
412 regardless of whether the person holds an account with such  
413 person or financial institution.

414 (d) A cash reload mechanism, which is a system that makes  
415 it possible to convert cash into an electronic form which a  
416 person can use to add money to a general-use prepaid card or an  
417 online account with a payment intermediary. As used in this  
418 paragraph, the term "mechanism" means a system that is purchased  
419 by a person on a prepaid basis, that enables access to the funds  
420 via an authorization code or other security measure, and that is  
421 not directly used as a general-use prepaid card.

422 Section 11. Section 501.611, Florida Statutes, is amended  
423 to read:

424 501.611 Security.—

425 (1) An application filed pursuant to s. 501.605 must be  
426 accompanied by:

427 (a) A bond executed by a corporate surety approved by the  
428 department and licensed to do business in this state;

429 (b) An irrevocable letter of credit issued for the benefit  
430 of the applicant by a bank whose deposits are insured by an  
431 agency of the Federal Government; or

432 (c) A certificate of deposit in a financial institution  
433 insured by an agency of the Federal Government, which may be  
434 withdrawn only on the order of the department, except that the  
435 interest may accrue to the applicant.

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436 (2) The amount of the bond, letter of credit, or  
437 certificate of deposit must be a minimum of \$50,000, and the  
438 bond, letter of credit, or certificate of deposit must be in  
439 favor of the department for the use and benefit of any purchaser  
440 who is injured by the fraud, misrepresentation, breach of  
441 contract, financial failure, or violation of this part by the  
442 applicant ~~must be conditioned upon compliance by the applicant~~  
443 ~~with the provisions of this part.~~ The department may, at its  
444 discretion, establish a bond of a greater amount to ensure the  
445 general welfare of the public and the interests of the  
446 telemarketing industry.

447 (3) The bond shall be posted with the department on a form  
448 adopted by ~~and shall remain in force throughout the period of~~  
449 ~~licensure with the department~~ rule and shall remain in force  
450 throughout the period of licensure.

451 (4) The department or a ~~any~~ governmental agency, on behalf  
452 of an ~~any~~ injured purchaser or a ~~any~~ purchaser herself or  
453 himself who is injured by ~~the bankruptcy of the applicant or her~~  
454 ~~or his breach of any agreement entered into in her or his~~  
455 ~~capacity as a licensee,~~ may bring and maintain an action to  
456 recover against the bond, letter of credit, or certificate of  
457 deposit.

458 (5) A purchaser may file a claim against the bond or other  
459 form of security. Such claim must be submitted to the department  
460 in writing on a form affidavit approved by department rule  
461 within 120 days after an alleged injury has occurred or is  
462 discovered to have occurred or a judgment has been entered. The  
463 proceedings shall be conducted in accordance with chapter 120.  
464 For proceedings conducted under ss. 120.569 and 120.57, the



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465 department must act only as a nominal party.

466 (6) The commercial telephone seller shall pay to the  
467 department for distribution to the consumer any indebtedness  
468 determined by final order of the department within 30 days after  
469 the order is entered. If the commercial telephone seller fails  
470 to make timely payment, the department shall make demand upon  
471 the surety, which may include an institution issuing a letter of  
472 credit or depository on a certificate of deposit. If a surety  
473 fails to comply with a demand for payment issued pursuant to a  
474 final order, the department may file an action in circuit court  
475 pursuant to s. 120.69 to recover payment up to the amount of the  
476 bond or other form of security. If the court affirms the  
477 department's demand for payment from the surety, the department  
478 shall be awarded all court costs and reasonable attorney fees.

479 Section 12. Section 501.616, Florida Statutes, is amended  
480 to read:

481 501.616 Unlawful acts and practices.-

482 (1) A ~~It shall be unlawful for any~~ commercial telephone  
483 seller or salesperson may not accept a novelty payment, directly  
484 or indirectly, which includes, but is not limited to, a cash-to-  
485 cash money transfer, cash reload mechanism, remotely created  
486 check, remotely created payment order, or other novelty payment  
487 as defined by rule of the department as payment for goods or  
488 services offered or sold through telemarketing ~~to require that~~  
489 ~~payment be by credit card authorization or otherwise to announce~~  
490 ~~a preference for that method of payment.~~

491 (2) A ~~It shall be unlawful for any~~ commercial telephone  
492 seller may not ~~to~~ employ, or be affiliated with an, ~~any~~  
493 unlicensed salesperson.

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494 (3) ~~A It shall be unlawful for any salesperson~~ may not ~~to~~  
495 be employed by, or affiliated with, an unlicensed commercial  
496 telephone seller.

497 (4) ~~A It shall be unlawful for any commercial telephone~~  
498 seller or salesperson must ~~to~~ be licensed ~~unlicensed~~.

499 (5) ~~A It shall be unlawful for any salesperson or~~  
500 commercial telephone seller may not ~~to~~ otherwise violate ~~the~~  
501 ~~provisions of this part.~~

502 (6) ~~A It shall be unlawful for any commercial telephone~~  
503 seller or salesperson may not ~~to~~ make a commercial telephone  
504 solicitation phone call before 8 ~~8:00~~ a.m. or after 9 ~~9:00~~ p.m.  
505 local time at the called person's location.

506 (7) ~~A It shall be unlawful for any commercial telephone~~  
507 seller or salesperson making a commercial telephone solicitation  
508 call may not intentionally act ~~telephonic solicitations to take~~  
509 ~~any intentional action~~ to prevent transmission of the telephone  
510 solicitor's name or telephone number to the party called when  
511 the equipment or service used by the telephone solicitor is  
512 capable of creating and transmitting the telephone solicitor's  
513 name or telephone number.

514 Section 13. Subsection (1) of section 501.913, Florida  
515 Statutes, is amended to read:

516 501.913 Registration.—

517 (1) Each brand of antifreeze to be distributed in this  
518 state shall be registered with the department before  
519 distribution. The person whose name appears on the label, the  
520 manufacturer, or the packager shall make application annually to  
521 the department on forms provided by the department ~~no later than~~  
522 July 1 of each year. The registration certificate expires 1 year

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523 from the date of issue. The registrant assumes, by application  
524 to register the brand, full responsibility for the registration  
525 and the~~r~~ quality~~r~~ and quantity of the product sold, offered, or  
526 exposed for sale in this state. If a registered brand is not in  
527 production for distribution in this state, ~~and~~ to ensure any  
528 remaining product that is still available for sale in this ~~the~~  
529 state is properly registered, the registrant must submit a  
530 notarized affidavit on company letterhead to the department  
531 certifying that:

- 532 (a) The stated brand is no longer in production;  
533 (b) The stated brand will not be distributed in this state;  
534 and  
535 (c) All existing product of the stated brand will be  
536 removed by the registrant from the state within 30 days after  
537 expiration of the registration or the registrant will reregister  
538 the brand for two subsequent registration periods.

539

540 If production resumes, the brand must be reregistered before it  
541 is distributed in this state.

542 Section 14. Paragraph (b) of subsection (1) of section  
543 525.16, Florida Statutes, is amended to read:

544 525.16 Administrative fine; penalties; prosecution of cases  
545 by state attorney.—

546 (1)

547 (b) If a, ~~3 years after the day of issuance of the last~~  
548 ~~stop-sale order for a violation under this chapter, no new~~  
549 violation does not occur ~~has occurred~~ at the same location while  
550 the business is under the same ~~during the~~ proprietorship within  
551 3 years after the date of issuance of the last previous stop-

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552 ~~sale order of the same person~~, all previous fines shall be  
553 disregarded when administering a fine for a new ~~the next~~  
554 violation.

555 Section 15. Section 526.015, Florida Statutes, is created  
556 to read:

557 526.015 Lubricating oil standards; labeling requirements.-

558 (1) A person may not sell or distribute, or offer for sale  
559 or distribution, a lubricating oil that fails to meet a standard  
560 or labeling requirement adopted by rule of the department.

561 (2) A product that fails to meet a standard or labeling  
562 requirement adopted by rule of the department shall be placed  
563 under a stop-sale order by the department, and the lot number of  
564 the product shall be identified and tagged by the department to  
565 prevent its sale.

566 (3) A person may not sell or distribute, or offer for sale  
567 or distribution, a product that has been placed under a stop-  
568 sale order.

569 (4) If a product is made to conform to standards and  
570 labeling requirements or is removed from the premises in a  
571 manner approved by the department, the department shall issue a  
572 release order.

573 Section 16. Subsection (6) of section 526.50, Florida  
574 Statutes, is repealed.

575 Section 17. Subsection (1) of section 526.51, Florida  
576 Statutes, is amended to read:

577 526.51 Registration; renewal and fees; departmental  
578 expenses; cancellation or refusal to issue or renew.-

579 (1) (a) Application for registration of each brand of brake  
580 fluid shall be made on forms supplied by the department. The

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581 applicant shall provide ~~give~~ his or her name and address, and  
582 the brand name of the brake fluid, the state in which ~~that~~ he or  
583 she owns the brand name and has complete control over the  
584 product sold thereunder in this state, and ~~provide~~ the name and  
585 address of the resident agent in this state. If the applicant  
586 does not own the brand name but wishes to register the product  
587 with the department, a notarized affidavit that gives the  
588 applicant full authorization to register the brand name, which  
589 must be ~~and that is~~ signed by the owner of the brand name, must  
590 accompany the application for registration. The affidavit must  
591 include all affected brand names, the owner's company or  
592 corporate name and address, the applicant's company or corporate  
593 name and address, and a statement from the owner authorizing the  
594 applicant to register the product with the department. The owner  
595 of the brand name shall maintain complete control over each  
596 product sold under that brand name in this state. All first-time  
597 applications for a brand and formula combination must be  
598 accompanied by a certified report from an independent testing  
599 laboratory, setting forth the analysis of the brake fluid which  
600 shows its quality meets ~~to be not less than~~ the minimum  
601 specifications established by the department for brake fluids. A  
602 sample of at least ~~not less than~~ 24 fluid ounces of brake fluid  
603 shall be submitted, in a container labeled in the same manner  
604 that it ~~or containers, with labels representing exactly how the~~  
605 ~~containers of brake fluid~~ will be labeled when sold, and the  
606 sample and container shall be analyzed and inspected by the  
607 department in order to verify ~~that~~ compliance with the  
608 department's specifications and labeling requirements ~~may be~~  
609 ~~verified~~. Upon approval of the application, the department shall

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610 register the brand name of the brake fluid and issue to the  
611 applicant a permit, valid for 1 year from the date of issue,  
612 authorizing the registrant to sell the brake fluid in this state  
613 ~~during the permit year specified in the permit.~~

614 (b) An ~~Each~~ applicant shall pay a fee of \$100 with each  
615 application. A permit may be renewed by application to the  
616 department, accompanied by a renewal fee of \$50, on or before  
617 the expiration of the previously issued ~~last day of the permit~~  
618 ~~year immediately preceding the permit year for which application~~  
619 ~~is made for renewal of registration.~~ To reregister a previously  
620 registered brand and formula combination, an applicant must  
621 submit a completed application and all materials as required in  
622 this section to the department before the expiration of the  
623 previously issued ~~first day of the permit year.~~ A brand and  
624 formula combination for which a completed application and all  
625 materials required in this section are not received before the  
626 expiration of the previously issued ~~first day of the permit year~~  
627 may not be registered with the department until a completed  
628 application and all materials required in this section have been  
629 received and approved. If the brand and formula combination was  
630 previously registered with the department and a fee,  
631 application, or materials required in this section are received  
632 after the expiration of the previously issued ~~first day of the~~  
633 ~~permit year,~~ a penalty of \$25 ~~accrues,~~ ~~which~~ shall be added to  
634 the fee. Renewals shall be accepted only on brake fluids that do  
635 not have a ~~no~~ change in formula, composition, or brand name. A  
636 ~~Any~~ change in formula, composition, or brand name of a ~~any~~ brake  
637 fluid constitutes a new product that must be registered in  
638 accordance with this part.

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639 (c) If a registered brand and formula combination is no  
640 longer in production for distribution in this state, in order to  
641 ensure that any remaining product still available for sale in  
642 this state is properly registered, ~~if a registered brand and~~  
643 ~~formula combination is no longer in production for distribution~~  
644 ~~in this state,~~ the registrant must submit a notarized affidavit  
645 on company letterhead to the department certifying that:

646 1. The stated brand and formula combination is no longer in  
647 production;

648 2. The stated brand and formula combination will not be  
649 distributed in this state; and

650 3. Either all existing product of the stated brand and  
651 formula combination will be removed by the registrant from the  
652 state within 30 days after the expiration of the registration or  
653 that the registrant will reregister the brand and formula  
654 combination for 2 ~~two~~ subsequent years ~~registration periods~~.

655

656 If production resumes, the brand and formula combination must be  
657 reregistered before it is again distributed in this state.

658 Section 18. Paragraph (a) of subsection (4), paragraphs (b)  
659 and (d) of subsection (7), and paragraph (b) of subsection (8)  
660 of section 539.001, Florida Statutes, are amended to read:

661 539.001 The Florida Pawnbroking Act.—

662 (4) ELIGIBILITY FOR LICENSE.—

663 (a) To be eligible for a pawnbroker's license, an applicant  
664 must:

665 1. Be of good moral character;

666 2. Have a net worth of at least \$50,000 or file with the  
667 agency a bond, issued by a surety company qualified to do

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668 business in this state, in the amount of \$10,000 for each  
669 license. In lieu of the bond required in this section, the  
670 applicant may establish a certificate of deposit or an  
671 irrevocable letter of credit in a Florida banking institution in  
672 the amount of the bond. The original bond, certificate of  
673 deposit, or letter of credit shall be filed with the agency on a  
674 form adopted by agency rule, and the agency shall be the  
675 beneficiary to said document. The bond, certificate of deposit,  
676 or letter of credit must ~~shall~~ be in favor of the agency for the  
677 use and benefit of any consumer who is injured by the fraud,  
678 misrepresentation, breach of contract, financial failure, or  
679 violation of ~~any provision of~~ this section by the pawnbroker.  
680 Such liability may be enforced either by proceeding in an  
681 administrative action or by filing a judicial suit at law ~~in a~~  
682 ~~court of competent jurisdiction~~. However, in such court suit,  
683 the bond, certificate of deposit, or letter of credit posted  
684 with the agency may ~~shall~~ not be amenable or subject to any  
685 judgment or other legal process issuing out of or from such  
686 court in connection with such lawsuit, but such bond,  
687 certificate of deposit, or letter of credit shall be amenable to  
688 and enforceable only by and through administrative proceedings  
689 before the agency. It is the intent of the Legislature that such  
690 bond, certificate of deposit, or letter of credit ~~shall~~ be  
691 applicable and liable only for the payment of claims duly  
692 adjudicated by order of the agency. The bond, certificate of  
693 deposit, or letter of credit shall be payable on a pro rata  
694 basis as determined by the agency, but the aggregate amount may  
695 not exceed the amount of the bond, certificate of deposit, or  
696 letter of credit. A consumer may file a claim against the bond,



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697 certificate of deposit, or letter of credit. Such claim must be  
698 submitted in writing to the agency on a form affidavit approved  
699 by agency rule within 120 days after an alleged injury has  
700 occurred or is discovered to have occurred or a judgment has  
701 been entered. The proceedings shall be conducted in accordance  
702 with chapter 120. For proceedings conducted under ss. 120.569  
703 and 120.57, the agency may act only as a nominal party. The  
704 pawnbroker shall pay to the agency for distribution to the  
705 consumer any indebtedness determined by final order of the  
706 agency within 30 days after the order is entered. If the  
707 pawnbroker fails to make timely payment, the agency shall make  
708 demand upon the surety, which includes an institution issuing a  
709 letter of credit or depository on a certificate of deposit. If a  
710 surety fails to comply with a demand for payment pursuant to a  
711 final order, the agency may file an action pursuant to s. 120.69  
712 in circuit court to recover payment, up to the amount of the  
713 bond or other form of security. If the agency is successful and  
714 the court affirms the agency's demand for payment from the  
715 surety, the agency shall be awarded all court costs and  
716 reasonable attorney fees;

717 3. Not have been convicted of, or found guilty of, or pled  
718 guilty or nolo contendere to, or not have been incarcerated  
719 within the last 10 years as a result of having previously been  
720 convicted of, or found guilty of, or pled guilty or nolo  
721 contendere to, regardless of adjudication, a felony within the  
722 last 10 years and not be acting as a beneficial owner for  
723 someone who has been convicted of, or found guilty of, or pled  
724 guilty or nolo contendere to, regardless of adjudication, a  
725 felony within the last 10 years; and

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726 4. Not have been convicted of, or found guilty of, or pled  
727 guilty or nolo contendere to, or not have been incarcerated  
728 within the last 10 years as a result of having previously been  
729 convicted of, or found guilty of, or pled guilty or nolo  
730 contendere to, regardless of adjudication, a crime that involves  
731 theft, larceny, dealing in stolen property, receiving stolen  
732 property, burglary, embezzlement, obtaining property by false  
733 pretenses, possession of altered property, or any other  
734 fraudulent or dishonest dealing within the last 10 years, and  
735 not be acting as a beneficial owner for someone who has been  
736 convicted, of, or found guilty of, or pled guilty or nolo  
737 contendere to, or has been incarcerated within the last 10 years  
738 as a result of having previously been convicted of, or found  
739 guilty of, or pled guilty or nolo contendere to, regardless of  
740 adjudication, a crime that involves theft, larceny, dealing in  
741 stolen property, receiving stolen property, burglary,  
742 embezzlement, obtaining property by false pretenses, possession  
743 of altered property, or any other fraudulent or dishonest  
744 dealing within the last 10 years.

745 (7) ORDERS IMPOSING PENALTIES.—

746 (b) Upon a finding as set forth in paragraph (a), the  
747 agency may enter an order doing one or more of the following:

748 1. Issuing a notice of noncompliance pursuant to s.  
749 120.695.

750 2. Imposing an administrative fine of up to ~~not to exceed~~  
751 \$5,000 for each act that ~~which~~ constitutes a violation of this  
752 section, ~~or~~ a rule, or an order.

753 3. Directing that the pawnbroker cease and desist specified  
754 activities.

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755 4. Refusing to license or revoking or suspending a license.

756 5. Placing the licensee on probation for a period of time,  
757 subject to such conditions as the agency may specify.

758 (d)1. ~~When the agency,~~ If a violation of this section  
759 occurs and the agency has reasonable cause to believe that a  
760 person is operating in violation of this section, ~~has reasonable~~  
761 ~~cause to believe that a person is operating in violation of this~~  
762 ~~section,~~ the agency may bring a civil action in the appropriate  
763 court for temporary or permanent injunctive relief and may seek  
764 other appropriate civil relief, including a civil penalty of up  
765 to not to exceed \$5,000 for each violation, restitution and  
766 damages for injured customers, court costs, and reasonable  
767 attorney ~~attorney's~~ fees.

768 2. The agency may terminate an ~~any~~ investigation or action  
769 upon agreement by the offender to pay a stipulated civil  
770 penalty, to make restitution or pay damages to customers, or to  
771 satisfy any other relief authorized in this section ~~herein~~ and  
772 requested by the agency.

773 (8) PAWNBROKER TRANSACTION FORM.—

774 (b) The front of the pawnbroker transaction form must  
775 include:

776 1. The name and address of the pawnshop.

777 2. A complete and accurate description of the pledged goods  
778 or purchased goods, including the following information, if  
779 applicable:

780 a. Brand name.

781 b. Model number.

782 c. Manufacturer's serial number.

783 d. Size.

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- 784 e. Color, as apparent to the untrained eye.
- 785 f. Precious metal type, weight, and content, if known.
- 786 Weight shall be obtained from a device properly approved by the
- 787 agency and in compliance with ss. 531.39 and 531.40, and any
- 788 other provision of chapter 531.
- 789 g. Gemstone description, including the number of stones.
- 790 h. In the case of firearms, the type of action, caliber or
- 791 gauge, number of barrels, barrel length, and finish.
- 792 i. Any other unique identifying marks, numbers, names, or
- 793 letters.
- 794
- 795 Notwithstanding sub-subparagraphs a.-i., in the case of multiple
- 796 items of a similar nature delivered together in one transaction
- 797 which do not bear serial or model numbers and which do not
- 798 include precious metal or gemstones, such as musical or video
- 799 recordings, books, and hand tools, the description of the items
- 800 is adequate if it contains the quantity of items and a
- 801 description of the type of items delivered.
- 802 3. The name, address, home telephone number, place of
- 803 employment, date of birth, physical description, and right
- 804 thumbprint of the pledgor or seller.
- 805 4. The date and time of the transaction.
- 806 5. The type of identification accepted from the pledgor or
- 807 seller, including the issuing agency and the identification
- 808 number.
- 809 6. In the case of a pawn:
- 810 a. The amount of money advanced, which must be designated
- 811 as the amount financed;
- 812 b. The maturity date of the pawn, which must be 30 days

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813 after the date of the pawn;

814 c. The default date of the pawn and the amount due on the  
815 default date;

816 d. The total pawn service charge payable on the maturity  
817 date, which must be designated as the finance charge;

818 e. The amount financed plus the finance charge that must be  
819 paid to redeem the pledged goods on the maturity date, which  
820 must be designated as the total of payments;

821 f. The annual percentage rate, computed according to ~~the~~  
822 regulations adopted by the Federal Reserve Board under the  
823 federal Truth in Lending Act; and

824 g. The front or back of the pawnbroker transaction form  
825 must include a statement that:

826 (I) Any personal property pledged to a pawnbroker within  
827 this state which is not redeemed within 30 days after ~~following~~  
828 the maturity date of the pawn, or if the 30th day is not a  
829 business day, ~~then~~ the following business day, is automatically  
830 forfeited to the pawnbroker, and absolute right, title, and  
831 interest in and to the property vests in and is deemed conveyed  
832 to the pawnbroker by operation of law, and ~~no~~ further notice is  
833 not necessary;

834 (II) The pledgor is not obligated to redeem the pledged  
835 goods; and

836 (III) If the pawnbroker transaction form is lost,  
837 destroyed, or stolen, the pledgor must immediately advise the  
838 issuing pawnbroker in writing by certified or registered mail,  
839 return receipt requested, or in person evidenced by a signed  
840 receipt.

841 (IV) A pawn may be extended upon mutual agreement of the

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842 parties.

843 7. In the case of a purchase, the amount of money paid for  
844 the goods or the monetary value assigned to the goods in  
845 connection with the transaction.

846 8. A statement that the pledgor or seller of the item  
847 represents and warrants that it is not stolen, that it has no  
848 liens or encumbrances against it, and that the pledgor or seller  
849 is the rightful owner of the goods and has the right to enter  
850 into the transaction.

851

852 A ~~Any~~ person who knowingly gives false verification of ownership  
853 or gives a false or altered identification and who receives  
854 money from a pawnbroker for goods sold or pledged commits:

855 a. If the value of the money received is less than \$300, a  
856 felony of the third degree, punishable as provided in s.  
857 775.082, s. 775.083, or s. 775.084.

858 b. If the value of the money received is \$300 or more, a  
859 felony of the second degree, punishable as provided in s.  
860 775.082, s. 775.083, or s. 775.084.

861 Section 19. Section 559.929, Florida Statutes, is amended  
862 to read:

863 559.929 Security requirements.—

864 (1) An application must be accompanied by a performance  
865 bond in an amount set by the department under paragraph (a),  
866 paragraph (b), or paragraph (c). The surety on such bond must  
867 ~~shall~~ be a surety company authorized to do business in the  
868 state.

869 (a) Each seller of travel which ~~that~~ certifies its business  
870 activities under s. 559.9285(1)(a) shall provide a performance

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871 bond in an amount up to ~~not to exceed~~ \$25,000, or in the amount  
872 of \$50,000 if the seller of travel is offering vacation  
873 certificates.

874 (b) Each seller of travel which ~~that~~ certifies its business  
875 activities under s. 559.9285(1)(b) shall provide a performance  
876 bond in an amount up to ~~not to exceed~~ \$100,000, or in the amount  
877 of \$150,000 if the seller of travel is offering vacation  
878 certificates.

879 (c) Each seller of travel which ~~that~~ certifies its business  
880 activities under s. 559.9285(1)(c) shall provide a performance  
881 bond in an amount up to ~~not to exceed~~ \$250,000, or in the amount  
882 of \$300,000 if the seller of travel is offering vacation  
883 certificates.

884 (2) The bond must ~~shall~~ be in favor of the department on a  
885 form adopted by rule of the department for the use and benefit  
886 of a ~~any~~ traveler who is injured by the fraud,  
887 misrepresentation, breach of contract, financial failure, or  
888 violation ~~of any provision~~ of this part by the seller of travel.  
889 Such liability may be enforced either by proceeding in an  
890 administrative action as specified in subsection (3) or by  
891 filing a judicial suit at law ~~in a court of competent~~  
892 ~~jurisdiction~~. However, in such court suit the bond posted with  
893 the department shall not be amenable or subject to any judgment  
894 or other legal process issuing out of or from such court in  
895 connection with such lawsuit, but such bond shall be amenable to  
896 and enforceable only by and through administrative proceedings  
897 before the department. It is the intent of the Legislature that  
898 such bond is ~~shall be~~ applicable and liable only for the payment  
899 of claims duly adjudicated by order of the department. The bond

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900 must ~~shall~~ be open to successive claims, but the aggregate  
901 amount awarded may not exceed the amount of the bond. In  
902 addition to the foregoing, a bond provided by a registrant or  
903 applicant for registration which certifies its business  
904 activities under s. 559.9285(1)(b) or (c) must ~~shall~~ be in favor  
905 of the department, with payment in the following order of  
906 priority:

907 (a) All expenses for prosecuting the registrant or  
908 applicant in an ~~any~~ administrative or civil action under this  
909 part, including attorney fees ~~for attorneys~~ and fees for other  
910 professionals, court costs or other costs of the proceedings,  
911 and all other expenses incidental to the action.

912 (b) The ~~All~~ costs and expenses of investigation before  
913 ~~prior to~~ the commencement of an administrative or civil action  
914 under this part.

915 (c) An ~~Any~~ unpaid administrative fine imposed by final  
916 order or an ~~any~~ unpaid civil penalty imposed by final judgment  
917 under this part.

918 (d) Damages or compensation for a ~~any~~ traveler injured as  
919 provided in this subsection.

920 (3) A ~~Any~~ traveler may file a claim against the bond. Such  
921 claim must ~~which shall~~ be submitted to the department ~~made~~ in  
922 writing on a form affidavit approved by department rule ~~to the~~  
923 ~~department~~ within 120 days after an alleged injury has occurred  
924 or is discovered to have occurred or a judgment has been  
925 entered. The proceedings shall be conducted ~~held~~ in accordance  
926 with chapter 120. The department may act only as a nominal party  
927 in proceedings conducted under ss. 120.569 and 120.57.

928 (4) Any indebtedness determined by final order of the



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929 department must be paid by the seller of travel to the  
930 department within 30 days after the order is entered, for  
931 distribution to the traveler. If the seller of travel fails to  
932 make payment within the 30 days, the department shall make  
933 demand upon the surety, which includes an institution issuing a  
934 letter of credit or depository on a certificate of deposit. Upon  
935 failure of a surety to comply with a demand for payment pursuant  
936 to a final order, the department may file an action in circuit  
937 court to recover payment, up to the amount of the bond or other  
938 form of security pursuant to s. 120.69. If the department is  
939 successful and the court affirms the department's demand for  
940 payment from the surety, the department shall be allowed all  
941 court costs incurred and reasonable attorney fees to be fixed  
942 and collected as a part of the costs of the suit.

943 (5)(4) ~~If In any situation in which~~ the seller of travel is  
944 currently the subject of an administrative, civil, or criminal  
945 action by the department, the Department of Legal Affairs, or  
946 the state attorney relating to ~~concerning~~ compliance with this  
947 part, the right to proceed against the bond as provided in  
948 subsection (3) is ~~shall be~~ suspended until ~~after~~ any enforcement  
949 action becomes final.

950 (6)(5) The department may waive the bond requirement on an  
951 annual basis if the seller of travel has had 5 or more  
952 consecutive years of experience as a seller of travel in this  
953 state ~~Florida~~ in compliance with this part, has not had a any  
954 civil, criminal, or administrative action instituted against the  
955 seller of travel in the vacation and travel business by a any  
956 governmental agency or an any action involving fraud, theft,  
957 misappropriation of property, violation of a any statute

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958 pertaining to business or commerce with a ~~any~~ terrorist state,  
959 or moral turpitude, and has a satisfactory consumer complaint  
960 history with the department, and certifies its business  
961 activities under s. 559.9285. Such waiver may be revoked if the  
962 seller of travel violates ~~any provision of~~ this part. A seller  
963 of travel which ~~that~~ certifies its business activities under s.  
964 559.9285(1)(b) or (c) is not entitled to the waiver provided in  
965 this subsection.

966 Section 20. Subsection (43) is added to section 570.07,  
967 Florida Statutes, to read:

968 570.07 Department of Agriculture and Consumer Services;  
969 functions, powers, and duties.—The department shall have and  
970 exercise the following functions, powers, and duties:

971 (43) (a) Notwithstanding any other law, when an  
972 administrative complaint is served on a licensee of the Division  
973 of Licensing pursuant to s. 790.06, the division shall provide  
974 service by regular mail to the licensee's last known address of  
975 record, by certified mail to the last known address of record,  
976 and, if possible, by e-mail.

977 (b) If service as provided in paragraph (a) does not  
978 provide the division with proof of service and the individual  
979 has an address on file with the division in a state other than  
980 this state or in a foreign territory or country, the division  
981 shall call, if available, the licensee's last known telephone  
982 number of record, shall publish notice in a newspaper of general  
983 circulation in Leon County, and shall cause a short, plain  
984 notice to the licensee to be posted on the front page of the  
985 department's website.

986 Section 21. Paragraph (a) of subsection (4) of section

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987 943.059, Florida Statutes, is amended to read:

988       943.059 Court-ordered sealing of criminal history records.-  
989 The courts of this state shall continue to have jurisdiction  
990 over their own procedures, including the maintenance, sealing,  
991 and correction of judicial records containing criminal history  
992 information to the extent such procedures are not inconsistent  
993 with the conditions, responsibilities, and duties established by  
994 this section. Any court of competent jurisdiction may order a  
995 criminal justice agency to seal the criminal history record of a  
996 minor or an adult who complies with the requirements of this  
997 section. The court shall not order a criminal justice agency to  
998 seal a criminal history record until the person seeking to seal  
999 a criminal history record has applied for and received a  
1000 certificate of eligibility for sealing pursuant to subsection  
1001 (2). A criminal history record that relates to a violation of s.  
1002 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
1003 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
1004 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
1005 916.1075, a violation enumerated in s. 907.041, or any violation  
1006 specified as a predicate offense for registration as a sexual  
1007 predator pursuant to s. 775.21, without regard to whether that  
1008 offense alone is sufficient to require such registration, or for  
1009 registration as a sexual offender pursuant to s. 943.0435, may  
1010 not be sealed, without regard to whether adjudication was  
1011 withheld, if the defendant was found guilty of or pled guilty or  
1012 nolo contendere to the offense, or if the defendant, as a minor,  
1013 was found to have committed or pled guilty or nolo contendere to  
1014 committing the offense as a delinquent act. The court may only  
1015 order sealing of a criminal history record pertaining to one

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1016 arrest or one incident of alleged criminal activity, except as  
1017 provided in this section. The court may, at its sole discretion,  
1018 order the sealing of a criminal history record pertaining to  
1019 more than one arrest if the additional arrests directly relate  
1020 to the original arrest. If the court intends to order the  
1021 sealing of records pertaining to such additional arrests, such  
1022 intent must be specified in the order. A criminal justice agency  
1023 may not seal any record pertaining to such additional arrests if  
1024 the order to seal does not articulate the intention of the court  
1025 to seal records pertaining to more than one arrest. This section  
1026 does not prevent the court from ordering the sealing of only a  
1027 portion of a criminal history record pertaining to one arrest or  
1028 one incident of alleged criminal activity. Notwithstanding any  
1029 law to the contrary, a criminal justice agency may comply with  
1030 laws, court orders, and official requests of other jurisdictions  
1031 relating to sealing, correction, or confidential handling of  
1032 criminal history records or information derived therefrom. This  
1033 section does not confer any right to the sealing of any criminal  
1034 history record, and any request for sealing a criminal history  
1035 record may be denied at the sole discretion of the court.

1036 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
1037 history record of a minor or an adult which is ordered sealed by  
1038 a court of competent jurisdiction pursuant to this section is  
1039 confidential and exempt from the provisions of s. 119.07(1) and  
1040 s. 24(a), Art. I of the State Constitution and is available only  
1041 to the person who is the subject of the record, to the subject's  
1042 attorney, to criminal justice agencies for their respective  
1043 criminal justice purposes, which include conducting a criminal  
1044 history background check for approval of firearms purchases or

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1045 transfers as authorized by state or federal law, to judges in  
 1046 the state courts system for the purpose of assisting them in  
 1047 their case-related decisionmaking responsibilities, as set forth  
 1048 in s. 943.053(5), or to those entities set forth in  
 1049 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
 1050 licensing, access authorization, and employment purposes.

1051 (a) The subject of a criminal history record sealed under  
 1052 this section or ~~under other provisions of law~~, including former  
 1053 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
 1054 deny or fail to acknowledge the arrests covered by the sealed  
 1055 record, unless ~~except when~~ the subject of the record:

- 1056 1. Is a candidate for employment with a criminal justice  
 1057 agency;
- 1058 2. Is a defendant in a criminal prosecution;
- 1059 3. Concurrently or subsequently petitions for relief under  
 1060 this section, s. 943.0583, or s. 943.0585;
- 1061 4. Is a candidate for admission to The Florida Bar;
- 1062 5. Is seeking to be employed or licensed by or to contract  
 1063 with the Department of Children and Families, the Division of  
 1064 Vocational Rehabilitation within the Department of Education,  
 1065 the Agency for Health Care Administration, the Agency for  
 1066 Persons with Disabilities, the Department of Health, the  
 1067 Department of Elderly Affairs, or the Department of Juvenile  
 1068 Justice or to be employed or used by such contractor or licensee  
 1069 in a sensitive position having direct contact with children, the  
 1070 disabled, or the elderly;
- 1071 6. Is seeking to be employed or licensed by the Department  
 1072 of Education, a ~~any~~ district school board, a ~~any~~ university  
 1073 laboratory school, a ~~any~~ charter school, a ~~any~~ private or

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1074 parochial school, or a ~~any~~ local governmental entity that  
1075 licenses child care facilities; ~~or~~

1076 7. Is attempting to purchase a firearm from a licensed  
1077 importer, licensed manufacturer, or licensed dealer and is  
1078 subject to a criminal history check under state or federal law;  
1079 or-

1080 8. Is seeking to be licensed by the Bureau of License  
1081 Issuance of the Division of Licensing within the Department of  
1082 Agriculture and Consumer Services to carry a concealed weapon or  
1083 concealed firearm. This exception applies only to the  
1084 determination of an applicant's eligibility in accordance with  
1085 s. 790.06.

1086 Section 22. Section 205.1969, Florida Statutes, is amended  
1087 to read:

1088 205.1969 Health studios; consumer protection.—A county or  
1089 municipality may not issue or renew a business tax receipt for  
1090 the operation of a health studio pursuant to ss. 501.012-501.019  
1091 ~~or ballroom dance studio pursuant to s. 501.143,~~ unless such  
1092 business exhibits a current license, registration, or letter of  
1093 exemption from the Department of Agriculture and Consumer  
1094 Services.

1095 Section 23. Subsection (6) of section 501.015, Florida  
1096 Statutes, is amended to read:

1097 501.015 Health studios; registration requirements and  
1098 fees.—Each health studio shall:

1099 (6) Be considered a new health studio and is ~~shall be~~  
1100 subject to the requirements of s. 501.016 each time the health  
1101 studio changes ownership or, in the case of corporate ownership,  
1102 each time the stock ownership is changed so as to effectively

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1103 put the health studio under new management or control,  
1104 notwithstanding s. 501.016(8) ~~the provisions of s. 501.016(6)~~. A  
1105 change of ownership does not occur within the meaning of this  
1106 subsection if:

1107 (a) Substantially the same stockholders form a new  
1108 corporate entity;

1109 (b) In the opinion of the department, the change does not  
1110 effectively place the health studio under new management and  
1111 control; and

1112 (c) The health studio has a satisfactory complaint history  
1113 with the department.

1114 Section 24. This act shall take effect July 1, 2014.