

1 A bill to be entitled

2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 472.027, F.S.;
4 directing the Board of Professional Surveyors and
5 Mappers to adopt rules establishing specified
6 standards of practice; amending s. 493.6108, F.S.;
7 revising conditions relating to the examination of
8 fingerprint records for private investigative,
9 security, and repossession service licenses; amending
10 s. 493.6113, F.S.; providing conditions for renewal of
11 certain firearm licenses; amending s. 493.6115, F.S.;
12 authorizing certain firearms licensees to carry
13 specified handguns; amending s. 493.6305, F.S.;
14 providing conditions under which certain licensees are
15 authorized to carry concealed firearms; amending s.
16 501.016, F.S.; providing for consumer claims against
17 certain bonds posted by health studios; amending s.
18 501.059, F.S.; prohibiting telephone solicitation of
19 certain donors; repealing s. 501.143, F.S., relating
20 to the Dance Studio Act; amending s. 501.603, F.S.;
21 defining the term "novelty payment"; amending s.
22 501.611, F.S.; providing for consumer claims against
23 certain bonds posted by commercial telephone sellers;
24 amending s. 501.616, F.S.; prohibiting commercial
25 telephone sellers from accepting specified payments;
26 amending s. 501.913, F.S.; providing for expiration of

Page 1 of 46

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 antifreeze registration certificates; amending s.
28 525.16, F.S.; revising administrative fine provisions
29 for gasoline and oil proprietors; creating s. 526.015,
30 F.S.; prohibiting the sale and distribution of certain
31 lubricating oil; amending s. 526.50, F.S.; deleting
32 the definition of the term "permit year"; amending s.
33 526.51, F.S.; revising provisions for issuance and
34 renewal of permits to sell brake fluid; amending s.
35 539.001, F.S.; providing for consumer claims against
36 certain bonds posted by pawnbroking licensees;
37 revising administrative fine and civil penalty
38 provisions for pawnbroking licensees; providing
39 requirements for certain weight descriptions; amending
40 s. 559.929, F.S.; providing for consumer claims
41 against certain bonds posted by sellers of travel;
42 amending s. 943.059, F.S.; requiring the subject of a
43 sealed criminal history record to provide such
44 information when applying for a concealed weapon or
45 concealed firearm permit; providing applicability;
46 amending ss. 205.1969, 472.025, 501.015, 627.7842, and
47 718.104, F.S.; conforming provisions to changes made
48 by the act; providing an appropriation; providing
49 effective dates.

50
51 Be It Enacted by the Legislature of the State of Florida:
52

53 Section 1. Section 472.027, Florida Statutes, is amended
54 to read:

55 472.027 ~~Minimum technical~~ Standards of practice for
56 ~~surveying and mapping.~~—The board shall adopt rules establishing
57 standards of relating to the practice for the profession of
58 surveying and mapping to:

59 (1) Assure competence in the practice of the profession;

60 (2) Assure accuracy, completeness, and quality in the
61 products provided;

62 (3) Assure adequate and defensible real property boundary
63 locations; and

64 (4) Govern the following professional matters:

65 (a) Conflicts of interest.

66 (b) Client confidentiality.

67 (c) Misuse, reuse, unauthorized use, or alteration of
68 another professional's product.

69 (d) Fair dealing in all professional relationships and
70 private and public sector contracts.

71 (e) Retention of work products in hard copy or electronic
72 or digital formats.

73 (f) Transfer and storage of files and file materials upon
74 discontinuance of the practice of surveying and mapping which
75 ~~establish minimum technical standards to ensure the achievement~~
76 ~~of no less than minimum degrees of accuracy, completeness, and~~
77 ~~quality in order to assure adequate and defensible real property~~
78 ~~boundary locations and other pertinent information provided by~~

79 ~~surveyors and mappers under the authority of ss. 472.001-~~
 80 ~~472.037.~~

81 Section 2. Paragraph (a) of subsection (1) of section
 82 493.6108, Florida Statutes, is amended to read:

83 493.6108 Investigation of applicants by Department of
 84 Agriculture and Consumer Services.—

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

88 (a)1. An examination of fingerprint records and police
 89 records. If a criminal history record check of an ~~any~~ applicant
 90 under this chapter is performed by means of fingerprint
 91 identification, the time limitations prescribed by s. 120.60(1)
 92 shall be tolled while ~~during the time~~ the applicant's
 93 fingerprints are under review by the Department of Law
 94 Enforcement or the United States Department of Justice, Federal
 95 Bureau of Investigation.

96 2. If a legible set of fingerprints, as determined by the
 97 Department of Law Enforcement or the Federal Bureau of
 98 Investigation, cannot be obtained after two attempts, the
 99 Department of Agriculture and Consumer Services may determine
 100 the applicant's eligibility based upon a criminal history record
 101 check under the applicant's name conducted by the Federal Bureau
 102 of Investigation ~~Department of Law Enforcement if the~~
 103 ~~fingerprints are taken by a law enforcement agency or the~~
 104 ~~department and the applicant submits a written statement signed~~

105 ~~by the fingerprint technician or a licensed physician stating~~
106 ~~that there is a physical condition that precludes obtaining a~~
107 ~~legible set of fingerprints or that the fingerprints taken are~~
108 ~~the best that can be obtained.~~

109 Section 3. Paragraph (b) of subsection (3) of section
110 493.6113, Florida Statutes, is amended to read:

111 493.6113 Renewal application for licensure.—

112 (3) Each licensee is responsible for renewing his or her
113 license on or before its expiration by filing with the
114 department an application for renewal accompanied by payment of
115 the prescribed license fee.

116 (b) Each Class "G" licensee shall additionally submit
117 proof that he or she has received during each year of the
118 license period a minimum of 4 hours of firearms recertification
119 training taught by a Class "K" licensee and has complied with
120 such other health and training requirements that ~~which~~ the
121 department shall adopt by rule. Proof of completion of firearms
122 recertification training shall be submitted to the department
123 upon completion of the training. If the licensee fails to
124 complete documentation of completion of the required 4 hours of
125 annual training during ~~is not submitted by the end of the first~~
126 ~~year of the 2-year term of the license, the individual's license~~
127 ~~shall be automatically suspended until proof of the required~~
128 ~~training is submitted to the department. The licensee must~~
129 complete the minimum number of hours of range and classroom
130 training required at the time of initial licensure and submit

131 proof of completion of such training to the department before
132 the license may be reinstated. If the licensee fails to complete
133 ~~documentation of completion of~~ the required 4 hours of annual
134 training during ~~is not submitted by the end of~~ the second year
135 of the 2-year term of the license, the licensee must complete
136 ~~license shall not be renewed unless the renewal applicant~~
137 ~~completes~~ the minimum number of hours of range and classroom
138 training required at the time of initial licensure and submit
139 proof of completion of such training to the department before
140 the license may be renewed. The department may waive the
141 firearms training requirement if:

142 1. The applicant provides proof that he or she is
143 currently certified as a law enforcement officer or correctional
144 officer under the Criminal Justice Standards and Training
145 Commission and has completed law enforcement firearms
146 requalification training annually during the previous 2 years of
147 the licensure period;

148 2. The applicant provides proof that he or she is
149 currently certified as a federal law enforcement officer and has
150 received law enforcement firearms training administered by a
151 federal law enforcement agency annually during the previous 2
152 years of the licensure period; or

153 3. The applicant submits a valid firearm certificate among
154 those specified in s. 493.6105(6)(a) and provides proof of
155 having completed requalification training during the previous 2
156 years of the licensure period.

157 Section 4. Subsection (6) of section 493.6115, Florida
 158 Statutes, is amended to read:

159 493.6115 Weapons and firearms.—

160 (6) In addition to any other firearm approved by the
 161 department, a licensee who has been issued a Class "G" license
 162 may carry a .38 caliber revolver; or a .380 caliber or 9
 163 millimeter semiautomatic pistol; or a .357 caliber revolver with
 164 .38 caliber ammunition only; or a .40 caliber handgun; or a .45
 165 ACP handgun while performing duties authorized under this
 166 chapter. ~~A~~ ~~No~~ licensee may not carry more than two firearms upon
 167 her or his person when performing her or his duties. A licensee
 168 may only carry a firearm of the specific type and caliber with
 169 which she or he is qualified pursuant to the firearms training
 170 referenced in subsection (8) or s. 493.6113(3)(b).

171 Section 5. Subsection (4) is added to section 493.6305,
 172 Florida Statutes, to read:

173 493.6305 Uniforms, required wear; exceptions.—

174 (4) Class "D" licensees who are also Class "G" licensees
 175 and who are performing bodyguard or executive protection
 176 services may carry their authorized firearm concealed while in
 177 nonuniform as needed in the conduct of such services.

178 Section 6. Section 501.016, Florida Statutes, is amended
 179 to read:

180 501.016 Health studios; security requirements.—Each health
 181 studio that sells contracts for health studio services shall
 182 meet the following requirements:

183 (1) Each health studio shall maintain for each separate
 184 business location a bond issued by a surety company admitted to
 185 do business in this state. The principal sum of the bond must
 186 ~~shall~~ be \$25,000, and the bond, when required, must ~~shall~~ be
 187 obtained before a business tax receipt may be issued under
 188 chapter 205. Upon issuance of a business tax receipt, the
 189 licensing authority shall immediately notify the department of
 190 such issuance in a manner established by the department by rule.
 191 The bond must ~~shall~~ be in favor of the department ~~state~~ for the
 192 benefit of a ~~any~~ person injured as a result of a violation of
 193 ss. 501.012-501.019. Liability for injuries as a result of a
 194 violation of ss. 501.012-501.019 may be determined in an
 195 administrative proceeding of the department or through a civil
 196 action. However, claims against the bond or certificate of
 197 deposit may only be paid by order of the department in an
 198 administrative proceeding in amounts up to the determined
 199 liability for the injuries. The aggregate liability of the
 200 surety to all persons for all breaches of the conditions of the
 201 bonds provided by this section may not ~~herein shall in no event~~
 202 exceed the amount of the bond. The original surety bond required
 203 by this section shall be filed with the department on a form
 204 adopted by department rule.

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

208 (a) An irrevocable letter of credit from a ~~any~~ foreign or

209 domestic bank in the amount of \$25,000; or

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

212
 213 The original letter of credit or certificate of deposit
 214 submitted in lieu of the bond shall be filed with the
 215 department. The department shall decide whether the security
 216 furnished in lieu of bond by the health studio complies ~~is in~~
 217 ~~compliance~~ with the requirements of this section.

218 (3) A consumer may file a claim against the bond, letter
 219 of credit, or certificate of deposit. Such claim, which must be
 220 submitted in writing on an affidavit form adopted by department
 221 rule, must be submitted to the department within 120 days after
 222 an alleged injury has occurred or is discovered to have occurred
 223 or a judgment has been entered. The proceedings shall be
 224 conducted pursuant to chapter 120. For proceedings conducted
 225 pursuant to ss. 120.569 and 120.57, the department shall act
 226 only as a nominal party.

227 (4) Any indebtedness determined by final order of the
 228 department shall be paid by the health studio to the department
 229 within 30 days after the order is entered for disbursement to
 230 the consumer. If the health studio fails to make payment within
 231 30 days, the department shall make a demand for payment upon the
 232 surety which includes an institution issuing a letter of credit
 233 or depository on a certificate of deposit. Upon failure of a
 234 surety to comply with a demand for payment pursuant to a final

235 order, the department may file an action in circuit court to
 236 recover payment, up to the amount of the bond or other form of
 237 security, pursuant to s. 120.69. If the department prevails in
 238 such action, the department may recover court costs and
 239 reasonable attorney fees.

240 (5)~~(3)~~ A health studio that ~~which~~ sells contracts for
 241 future health studio services and ~~which~~ collects direct payment
 242 on a monthly basis for those services is ~~shall be~~ exempt from
 243 the security requirements of subsections (1) and (2) if provided
 244 ~~that~~ any service fee charged is a reasonable and fair ~~service~~
 245 ~~fee~~. The number of monthly payments in such a contract must
 246 ~~shall~~ be equal to the number of months in the contract. The
 247 contract must ~~shall~~ conform to all the requirements for future
 248 health studio services contracts ~~as~~ specified in ss. 501.012-
 249 501.019 and must ~~shall~~ specify in the terms of the contract the
 250 charges to be assessed for those health studio services.

251 (6)~~(4)~~ If the health studio furnishes the department with
 252 evidence satisfactory to the department that the aggregate
 253 dollar amount of all current outstanding contracts of the health
 254 studio is less than \$5,000, the department may, ~~at its~~
 255 ~~discretion,~~ reduce the principal amount of the surety bond or
 256 other sufficient financial responsibility required in
 257 subsections (1) and (2) to a sum of at least ~~not less than~~
 258 \$10,000. However, at any time the aggregate dollar amount of
 259 such contracts exceeds \$5,000, the health studio shall ~~so~~ notify
 260 the department and shall ~~thereupon~~ provide the bond or other

261 documentation as required in subsections (1) and (2). Health
262 studios whose bonds have been reduced shall ~~must~~ provide the
263 department with an annually updated list of members. ~~Failure to~~
264 ~~file an annual report will result in~~ The department shall
265 increase ~~raising~~ the security requirement to \$25,000 for a
266 health studio that fails to file an annual report.

267 (7) ~~(5)~~ Each health studio shall furnish the department
268 with a copy of the escrow account which would contain all funds
269 received for future consumer services, whether provided under ~~by~~
270 contract or otherwise, sold before ~~prior to~~ the business
271 location's full operation and specify a date certain for
272 opening, if such an escrow account is established.

273 (8) ~~(6)~~ Subsections (1) and (2) do ~~shall~~ not apply to a
274 health studio that has been operating in compliance with ss.
275 501.012-501.019 and rules adopted thereunder, ~~continuously~~ under
276 the same ownership and control, continuously for the most recent
277 5-year period; ~~in compliance with ss. 501.012-501.019 and the~~
278 ~~rules adopted thereunder~~ and that has not had any civil,
279 criminal, or administrative adjudication against it by any state
280 or federal agency; and that has a satisfactory consumer
281 complaint history. As used in this subsection, the term
282 "satisfactory consumer complaint history" means that there are
283 no unresolved consumer complaints regarding the health studio
284 ~~are~~ on file with the department. A consumer complaint is
285 unresolved if a health studio has not responded to the
286 department's efforts to mediate the complaint or if there has

287 | been an adjudication that the health studio has violated ss.
 288 | 501.012-501.019 or the rules adopted thereunder. Such exemption
 289 | extends to all current and future business locations of an
 290 | exempt health studio.

291 | ~~(9)-(7)~~ This section does not apply to a business,
 292 | otherwise defined as a health studio, which sells a single
 293 | contract of 30 days or less to a ~~any~~ member without any option
 294 | for renewal or any other condition that ~~which~~ establishes any
 295 | right in the member beyond the term of such contract ~~is exempt~~
 296 | ~~from the provisions of this section.~~ However, this exemption
 297 | does ~~shall~~ not apply if the business offers any other health
 298 | studio contract, regardless of ~~whatever~~ duration, at any time
 299 | before or during ~~or prior to~~ the existence of such single
 300 | contract of 30 days or less.

301 | ~~(10)-(8)~~ Except in the case of a natural disaster or an act
 302 | of God, a health studio that is exempt from the requirements of
 303 | subsections (1) and (2), but does not have any ~~that has no~~
 304 | business locations open for 14 consecutive days, waives its
 305 | exemption and is considered to be a new health studio for the
 306 | purposes of ss. 501.012-501.019.

307 | Section 7. Subsection (5) of section 501.059, Florida
 308 | Statutes, is amended to read:

309 | 501.059 Telephone solicitation.—

310 | (5) A telephone solicitor or other person may not initiate
 311 | an outbound telephone call to a consumer or donor or potential
 312 | donor who has previously communicated to the telephone solicitor

313 or other person that he or she does not wish to receive an
314 outbound telephone call:

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

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

319 Section 8. Section 501.143, Florida Statutes, is repealed.

320 Section 9. Subsections (8) through (11) of section
321 501.603, Florida Statutes, are renumbered as subsections (9)
322 through (12), respectively, subsection (2) of that section is
323 amended, and a new subsection (8) is added to that section, to
324 read:

325 501.603 Definitions.—As used in this part, unless the
326 context otherwise requires, the term:

327 (2) "Commercial telephone seller" means a person who
328 engages in commercial telephone solicitation on his or her own
329 behalf or through salespersons. The term, ~~except that a~~
330 ~~commercial telephone seller~~ does not include a salesperson as
331 defined in subsection (11) or a person or entity operating under
332 a valid affidavit of exemption filed with the department
333 according to s. 501.608(1)(b) or exempted from this part by s.
334 501.604. ~~The term A commercial telephone seller does not include~~
335 ~~a salesperson as defined in subsection (10). A commercial~~
336 ~~telephone seller~~ includes, but is not limited to, owners,
337 operators, officers, directors, partners, or other individuals
338 engaged in the management activities of a business entity

339 pursuant to this part.

340 (8) "Novelty payment" means a payment method that does not
341 provide systematic monitoring to detect and deter fraud. The
342 term includes, but is not limited to, the following payment
343 devices:

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

347 (b) A remotely created payment order, which is a payment
348 instruction or order drawn on a person's account which is
349 initiated or created by the payee and which does not bear the
350 signature of the person on whose account the order is drawn and
351 which is cleared through a check-clearing system.

352 (c) A cash-to-cash money transfer, which is the electronic
353 transfer of the value of cash received from one person to
354 another person in a different location which is sent by a money
355 transfer provider and received in the form of cash. As used in
356 this paragraph, the term "money transfer provider" means a
357 person or financial institution that provides cash-to-cash money
358 transfers for a person in the normal course of its business,
359 regardless of whether the person holds an account with such
360 person or financial institution.

361 (d) A cash reload mechanism, which is a system that makes
362 it possible to convert cash into an electronic form that a
363 person can use to add money to a general-use prepaid card or an
364 online account with a payment intermediary. As used in this

365 paragraph, the term "mechanism" means a system that is purchased
 366 by a person on a prepaid basis, that enables access to the funds
 367 via an authorization code or other security measure, and that is
 368 not directly used as a general-use prepaid card.

369 Section 10. Section 501.611, Florida Statutes, is amended
 370 to read:

371 501.611 Security.—

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

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

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

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

383 (2) The amount of the bond, letter of credit, or
 384 certificate of deposit must be a minimum of \$50,000, and the
 385 bond, letter of credit, or certificate of deposit must be in
 386 favor of the department for the use and benefit of a purchaser
 387 who is injured by the fraud, misrepresentation, breach of
 388 contract, financial failure, or violation of this part by the
 389 applicant ~~must be conditioned upon compliance by the applicant~~
 390 ~~with the provisions of this part.~~ The department may, at its

391 discretion, establish a bond of a greater amount to ensure the
 392 general welfare of the public and the interests of the
 393 telemarketing industry.

394 (3) The bond shall be posted with the department on a form
 395 adopted by department rule and shall remain in force throughout
 396 the period of licensure with the department.

397 (4) The department or a ~~any~~ governmental agency, on behalf
 398 of an ~~any~~ injured purchaser or a ~~any~~ purchaser herself or
 399 himself who is injured by ~~the bankruptcy of the applicant or her~~
 400 ~~or his breach of any agreement entered into in her or his~~
 401 ~~capacity as a licensee~~, may bring and maintain an action to
 402 recover against the bond, letter of credit, or certificate of
 403 deposit.

404 (5) A purchaser may file a claim against the bond, letter
 405 of credit, or certificate of deposit. Such claim, which must be
 406 submitted in writing on an affidavit form adopted by department
 407 rule, must be submitted to the department within 120 days after
 408 an alleged injury has occurred or is discovered to have occurred
 409 or a judgment has been entered. The proceedings shall be
 410 conducted pursuant to chapter 120. For proceedings conducted
 411 pursuant to ss. 120.569 and 120.57, the department shall act
 412 only as a nominal party.

413 (6) Any indebtedness determined by final order of the
 414 department shall be paid by the commercial telephone seller to
 415 the department within 30 days after the order is entered for
 416 disbursement to the purchaser. If the commercial telephone

417 seller fails to make payment within 30 days, the department
 418 shall make a demand for payment upon the surety which includes
 419 an institution issuing a letter of credit or depository on a
 420 certificate of deposit. Upon failure of a surety to comply with
 421 a demand for payment pursuant to a final order, the department
 422 may file an action in circuit court to recover payment, up to
 423 the amount of the bond or other form of security, pursuant to s.
 424 120.69. If the department prevails, the department may recover
 425 court costs and reasonable attorney fees.

426 Section 11. Section 501.616, Florida Statutes, is amended
 427 to read:

428 501.616 Unlawful acts and practices.-

429 (1) A ~~It shall be unlawful for any~~ commercial telephone
 430 seller or salesperson may not directly or indirectly accept a
 431 novelty payment, as defined in s. 501.603(8) or by rule, as
 432 payment for goods or services offered or sold through
 433 telemarketing to require that payment be by credit card
 434 ~~authorization or otherwise to announce a preference for that~~
 435 ~~method of payment.~~

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

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

442 (4) A ~~It shall be unlawful for any~~ commercial telephone

443 seller or salesperson must ~~to~~ be licensed ~~unlicensed~~.

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

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

451 (7) ~~A It shall be unlawful for any~~ commercial telephone
 452 seller or salesperson making a commercial telephone solicitation
 453 call may not intentionally act ~~telephonic solicitations to take~~
 454 ~~any intentional action~~ to prevent transmission of the telephone
 455 solicitor's name or telephone number to the party called when
 456 the equipment or service used by the telephone solicitor is
 457 capable of creating and transmitting the telephone solicitor's
 458 name or telephone number.

459 Section 12. Subsection (1) of section 501.913, Florida
 460 Statutes, is amended to read:

461 501.913 Registration.—

462 (1) Each brand of antifreeze to be distributed in this
 463 state shall be registered with the department before
 464 distribution. The person whose name appears on the label, the
 465 manufacturer, or the packager shall make application annually to
 466 the department on forms provided by the department ~~no later than~~
 467 July 1 of each year. The registration certificate shall expire
 468 12 months after the date of issue. The registrant assumes, by

469 application to register the brand, full responsibility for the
 470 registration, quality, and quantity of the product sold,
 471 offered, or exposed for sale in this state. If a registered
 472 brand is not in production for distribution in this state and to
 473 ensure any remaining product that is still available for sale in
 474 the state is properly registered, the registrant must submit a
 475 notarized affidavit on company letterhead to the department
 476 certifying that:

- 477 (a) The stated brand is no longer in production;
- 478 (b) The stated brand will not be distributed in this
 479 state; and
- 480 (c) All existing product of the stated brand will be
 481 removed by the registrant from the state within 30 days after
 482 expiration of the registration or the registrant will reregister
 483 the brand for two subsequent registration periods.

484
 485 If production resumes, the brand must be reregistered before it
 486 is distributed in this state.

487 Section 13. Paragraph (b) of subsection (1) of section
 488 525.16, Florida Statutes, is amended to read:

489 525.16 Administrative fine; penalties; prosecution of
 490 cases by state attorney.—

- 491 (1)
- 492 (b) If, 3 years after the date ~~day of issuance~~ of the last
 493 ~~stop-sale order for a~~ violation under this chapter, a ~~no~~ new
 494 violation has not occurred at the same location during the

CS/CS/HB 7051

2014

495 proprietorship of the same person, all previous fines shall be
496 disregarded when administering a fine for the next violation.

497 Section 14. Section 526.015, Florida Statutes, is created
498 to read:

499 526.015 Lubricating oil standards and labeling
500 requirements.-

501 (1) A person may not sell or distribute, or offer for sale
502 or distribution, a lubricating oil that fails to meet a quality
503 standard, such as those established by the Society of Automotive
504 Engineers or other similar standard, or a labeling requirement
505 designed to prevent deceptive or misleading practices as adopted
506 by department rule.

507 (2) A product that fails to meet a standard or labeling
508 requirement adopted by department rule shall be placed under a
509 stop-sale order by the department, and the lot number of the
510 product shall be identified and tagged by the department to
511 prevent its sale.

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

515 (4) If a product is made to conform to standards and
516 labeling requirements or is removed from the premises in a
517 manner approved by the department, the department shall issue a
518 release order.

519 Section 15. Subsection (6) of section 526.50, Florida
520 Statutes, is amended to read:

521 526.50 Definition of terms.—As used in this part:
 522 ~~(6) "Permit year" means a period of 12 months commencing~~
 523 ~~July 1 and ending on the next succeeding June 30.~~

524 Section 16. Subsection (1) of section 526.51, Florida
 525 Statutes, is amended to read:

526 526.51 Registration; renewal and fees; departmental
 527 expenses; cancellation or refusal to issue or renew.—

528 (1)(a) Application for registration of each brand of brake
 529 fluid shall be made on forms supplied by the department. The
 530 applicant shall give his or her name and address and the brand
 531 name of the brake fluid, state that he or she owns the brand
 532 name and has complete control over the product sold thereunder
 533 in this state, and provide the name and address of the resident
 534 agent in this state. If the applicant does not own the brand
 535 name but wishes to register the product with the department, a
 536 notarized affidavit that gives the applicant full authorization
 537 to register the brand name and that is signed by the owner of
 538 the brand name must accompany the application for registration.
 539 The affidavit must include all affected brand names, the owner's
 540 company or corporate name and address, the applicant's company
 541 or corporate name and address, and a statement from the owner
 542 authorizing the applicant to register the product with the
 543 department. The owner of the brand name shall maintain complete
 544 control over each product sold under that brand name in this
 545 state. All first-time applications for a brand and formula
 546 combination must be accompanied by a certified report from an

547 independent testing laboratory, setting forth the analysis of
548 the brake fluid which shows its quality to be not less than the
549 specifications established by the department for brake fluids. A
550 sample of not less than 24 fluid ounces of brake fluid shall be
551 submitted, in a container with a label printed in the same
552 manner that it ~~or containers, with labels representing exactly~~
553 ~~how the containers of brake fluid~~ will be labeled when sold, and
554 the sample and container shall be analyzed and inspected by the
555 department in order that compliance with the department's
556 specifications and labeling requirements may be verified. Upon
557 approval of the application, the department shall register the
558 brand name of the brake fluid and issue to the applicant a
559 permit authorizing the registrant to sell the brake fluid in
560 this state ~~during the permit year specified in the permit.~~ The
561 registration certificate shall expire 12 months after the date
562 of issue.

563 (b) Each applicant shall pay a fee of \$100 with each
564 application. A permit may be renewed by application to the
565 department, accompanied by a renewal fee of \$50 on or before the
566 expiration last day of the previously issued permit ~~year~~
567 ~~immediately preceding the permit year for which application is~~
568 ~~made for renewal of registration.~~ To reregister a previously
569 registered brand and formula combination, an applicant must
570 submit a completed application and all materials as required in
571 this section to the department before the expiration first day
572 of the previously issued permit ~~year~~. A brand and formula

573 combination for which a completed application and all materials
574 required in this section are not received before the expiration
575 ~~first day~~ of the previously issued permit ~~year~~ may not be
576 registered with the department until a completed application and
577 all materials required in this section have been received and
578 approved. If the brand and formula combination was previously
579 registered with the department and a fee, application, or
580 materials required in this section are received after the
581 expiration ~~first day~~ of the previously issued permit ~~year~~, a
582 penalty of \$25 accrues, which shall be added to the fee.
583 Renewals shall be accepted only on brake fluids that have no
584 change in formula, composition, or brand name. Any change in
585 formula, composition, or brand name of a ~~any~~ brake fluid
586 constitutes a new product that must be registered in accordance
587 with this part.

588 (c) If a registered brand and formula combination is no
589 longer in production for distribution in this state, in order to
590 ensure that any remaining product still available for sale in
591 this state is properly registered, ~~if a registered brand and~~
592 ~~formula combination is no longer in production for distribution~~
593 ~~in this state,~~ the registrant must submit a notarized affidavit
594 on company letterhead to the department certifying that:

595 1. The stated brand and formula combination is no longer
596 in production;

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

599 3. Either all existing product of the stated brand and
600 formula combination will be removed by the registrant from the
601 state within 30 days after the expiration of the registration or
602 that the registrant will reregister the brand and formula
603 combination for 2 ~~two~~ subsequent years ~~registration periods~~.

604

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

607 Section 17. Paragraph (a) of subsection (4), paragraphs
608 (b) and (d) of subsection (7), and paragraph (b) of subsection
609 (8) of section 539.001, Florida Statutes, are amended to read:

610 539.001 The Florida Pawnbroking Act.—

611 (4) ELIGIBILITY FOR LICENSE.—

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

614 1. Be of good moral character;

615 2. Have a net worth of at least \$50,000 or file with the
616 agency a bond issued by a surety company qualified to do
617 business in this state in the amount of \$10,000 for each
618 license. In lieu of the bond required in this section, the
619 applicant may establish a certificate of deposit or an
620 irrevocable letter of credit in a Florida banking institution in
621 the amount of the bond. The original bond, certificate of
622 deposit, or letter of credit shall be filed with the agency on a
623 form adopted by agency rule, and the agency shall be the
624 beneficiary to said document. The bond, certificate of deposit,

625 or letter of credit must ~~shall~~ be in favor of the agency for the
626 use and benefit of a any consumer who is injured by the fraud,
627 misrepresentation, breach of contract, financial failure, or
628 violation ~~of any provision of~~ this section by the pawnbroker.
629 Such liability may be enforced ~~either~~ by proceeding in an
630 administrative action or by filing a civil action ~~judicial suit~~
631 ~~at law in a court of competent jurisdiction~~. However, in such
632 civil action ~~court suit~~, the bond, certificate of deposit, or
633 letter of credit posted with the agency may ~~shall~~ not be
634 amenable or subject to a any judgment or other legal process
635 issuing out of or from such court in connection with such civil
636 action ~~lawsuit~~, but such bond, certificate of deposit, or letter
637 of credit shall be amenable to and enforceable only by and
638 through administrative proceedings before the agency. It is the
639 intent of the Legislature that such bond, certificate of
640 deposit, or letter of credit ~~shall~~ be applicable and liable only
641 for the payment of claims duly adjudicated by order of the
642 agency. The bond, certificate of deposit, or letter of credit
643 shall be payable on a pro rata basis as determined by the
644 agency, but the aggregate amount awarded may not exceed the
645 amount of the bond, certificate of deposit, or letter of credit.
646 A consumer may file a claim against the bond, certificate of
647 deposit, or letter of credit. Such claim, which must be
648 submitted in writing on an affidavit form adopted by agency
649 rule, must be submitted to the agency within 120 days after an
650 alleged injury has occurred or is discovered to have occurred or

651 a judgment has been entered. The proceedings shall be conducted
652 pursuant to chapter 120. For proceedings conducted pursuant to
653 ss. 120.569 and 120.57, the agency shall act only as a nominal
654 party. Any indebtedness determined by final order of the agency
655 shall be paid by the pawnbroker to the agency within 30 days
656 after the order is entered for disbursement to the consumer. If
657 the pawnbroker fails to make payment within 30 days, the agency
658 shall make a demand for payment upon the surety which includes
659 an institution issuing a letter of credit or depository on a
660 certificate of deposit. Upon failure of a surety to comply with
661 a demand for payment pursuant to a final order, the agency may
662 file an action in circuit court to recover payment, up to the
663 amount of the bond or other form of security, pursuant to s.
664 120.69. If the agency prevails in such action, the agency may
665 recover court costs and reasonable attorney fees;

666 3. Not have been convicted of, or found guilty of, or pled
667 guilty or nolo contendere to, or not have been incarcerated
668 within the last 10 years as a result of having previously been
669 convicted of, or found guilty of, or pled guilty or nolo
670 contendere to, regardless of adjudication, a felony within the
671 last 10 years and not be acting as a beneficial owner for
672 someone who has been convicted of, or found guilty of, or pled
673 guilty or nolo contendere to, regardless of adjudication, a
674 felony within the last 10 years; and

675 4. Not have been convicted of, or found guilty of, or pled
676 guilty or nolo contendere to, or not have been incarcerated

677 within the last 10 years as a result of having previously been
 678 convicted of, or found guilty of, or pled guilty or nolo
 679 contendere to, regardless of adjudication, a crime that involves
 680 theft, larceny, dealing in stolen property, receiving stolen
 681 property, burglary, embezzlement, obtaining property by false
 682 pretenses, possession of altered property, or any other
 683 fraudulent or dishonest dealing within the last 10 years, and
 684 not be acting as a beneficial owner for someone who has been
 685 convicted, of, or found guilty of, or pled guilty or nolo
 686 contendere to, or has been incarcerated within the last 10 years
 687 as a result of having previously been convicted of, or found
 688 guilty of, or pled guilty or nolo contendere to, regardless of
 689 adjudication, a crime that involves theft, larceny, dealing in
 690 stolen property, receiving stolen property, burglary,
 691 embezzlement, obtaining property by false pretenses, possession
 692 of altered property, or any other fraudulent or dishonest
 693 dealing within the last 10 years.

694 (7) ORDERS IMPOSING PENALTIES.—

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

697 1. Issuing a notice of noncompliance pursuant to s.
 698 120.695.

699 2. Imposing an administrative fine of up ~~not~~ to ~~exceed~~
 700 \$5,000 for each act that ~~which~~ constitutes a violation of this
 701 section, ~~or~~ a rule, or an order.

702 3. Directing that the pawnbroker cease and desist

703 specified activities.

704 4. Refusing to license or revoking or suspending a
705 license.

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

708 (d)1. ~~When the agency,~~ If a violation of this section
709 occurs and the agency, has reasonable cause to believe that a
710 person is operating in violation of this section, the agency may
711 bring a civil action in the appropriate court for temporary or
712 permanent injunctive relief and may seek other appropriate civil
713 relief, including a civil penalty of up to ~~not to exceed~~ \$5,000 for
714 each violation, restitution and damages for injured customers,
715 court costs, and reasonable attorney ~~attorney's~~ fees.

716 2. The agency may terminate an ~~any~~ investigation or action
717 upon agreement by the offender to pay a stipulated civil
718 penalty, to make restitution or pay damages to customers, or to
719 satisfy any other relief authorized under this subsection ~~herein~~
720 and requested by the agency.

721 (8) PAWNBROKER TRANSACTION FORM.—

722 (b) The front of the pawnbroker transaction form must
723 include:

724 1. The name and address of the pawnshop.

725 2. A complete and accurate description of the pledged
726 goods or purchased goods, including the following information,
727 if applicable:

728 a. Brand name.

- 729 b. Model number.
- 730 c. Manufacturer's serial number.
- 731 d. Size.
- 732 e. Color, as apparent to the untrained eye.
- 733 f. Precious metal type, weight, and content, if known.
- 734 Weight must be obtained from a device that has been approved by
- 735 the agency and that complies with ss. 531.39, 531.40, and
- 736 531.60.
- 737 g. Gemstone description, including the number of stones.
- 738 h. In the case of firearms, the type of action, caliber or
- 739 gauge, number of barrels, barrel length, and finish.
- 740 i. Any other unique identifying marks, numbers, names, or
- 741 letters.
- 742
- 743 Notwithstanding sub-subparagraphs a.-i., in the case of multiple
- 744 items of a similar nature delivered together in one transaction
- 745 which do not bear serial or model numbers and which do not
- 746 include precious metal or gemstones, such as musical or video
- 747 recordings, books, and hand tools, the description of the items
- 748 is adequate if it contains the quantity of items and a
- 749 description of the type of items delivered.
- 750 3. The name, address, home telephone number, place of
- 751 employment, date of birth, physical description, and right
- 752 thumbprint of the pledgor or seller.
- 753 4. The date and time of the transaction.
- 754 5. The type of identification accepted from the pledgor or

755 seller, including the issuing agency and the identification
 756 number.

757 6. In the case of a pawn:

758 a. The amount of money advanced, which must be designated
 759 as the amount financed;

760 b. The maturity date of the pawn, which must be 30 days
 761 after the date of the pawn;

762 c. The default date of the pawn and the amount due on the
 763 default date;

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

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

769 f. The annual percentage rate, computed according to the
 770 regulations adopted by the Federal Reserve Board under the
 771 federal Truth in Lending Act; and

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

774 (I) Any personal property pledged to a pawnbroker within
 775 this state which is not redeemed within 30 days after ~~following~~
 776 the maturity date of the pawn, or if the 30th day is not a
 777 business day, ~~then~~ the following business day, is automatically
 778 forfeited to the pawnbroker, and absolute right, title, and
 779 interest in and to the property vests in and is deemed conveyed
 780 to the pawnbroker by operation of law, and ~~no~~ further notice is

781 not necessary;

782 (II) The pledgor is not obligated to redeem the pledged
783 goods; and

784 (III) If the pawnbroker transaction form is lost,
785 destroyed, or stolen, the pledgor must immediately advise the
786 issuing pawnbroker in writing by certified or registered mail,
787 return receipt requested, or in person evidenced by a signed
788 receipt.

789 (IV) A pawn may be extended upon mutual agreement of the
790 parties.

791 7. In the case of a purchase, the amount of money paid for
792 the goods or the monetary value assigned to the goods in
793 connection with the transaction.

794 8. A statement that the pledgor or seller of the item
795 represents and warrants that it is not stolen, that it has no
796 liens or encumbrances against it, and that the pledgor or seller
797 is the rightful owner of the goods and has the right to enter
798 into the transaction.

799
800 A ~~Any~~ person who knowingly gives false verification of ownership
801 or gives a false or altered identification and who receives
802 money from a pawnbroker for goods sold or pledged commits:

803 a. If the value of the money received is less than \$300, a
804 felony of the third degree, punishable as provided in s.
805 775.082, s. 775.083, or s. 775.084.

806 b. If the value of the money received is \$300 or more, a

807 felony of the second degree, punishable as provided in s.
808 775.082, s. 775.083, or s. 775.084.

809 Section 18. Section 559.929, Florida Statutes, is amended
810 to read:

811 559.929 Security requirements.—

812 (1) An application must be accompanied by a performance
813 bond in an amount set by the department under paragraph (a),
814 paragraph (b), or paragraph (c). The surety on such bond must
815 ~~shall~~ be a surety company authorized to do business in the
816 state.

817 (a) Each seller of travel which ~~that~~ certifies its
818 business activities under s. 559.9285(1) (a) shall provide a
819 performance bond in an amount up not to ~~exceed~~ \$25,000, or in
820 the amount of \$50,000 if the seller of travel is offering
821 vacation certificates.

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

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

832 (2) The bond must ~~shall~~ be filed with the department on a

833 form adopted by department rule and must be in favor of the
 834 department for the use and benefit of a ~~any~~ traveler who is
 835 injured by the fraud, misrepresentation, breach of contract,
 836 financial failure, or violation of ~~any provision of~~ this part by
 837 the seller of travel. Such liability may be enforced ~~either~~ by
 838 proceeding in an administrative action as specified in
 839 subsection (3) or by filing a civil action ~~judicial suit at law~~
 840 ~~in a court of competent jurisdiction~~. However, in such civil
 841 action ~~court suit~~ the bond posted with the department shall not
 842 be amenable or subject to a ~~any~~ judgment or other legal process
 843 issuing out of or from such court in connection with such civil
 844 action ~~lawsuit~~, but such bond shall be amenable to and
 845 enforceable only by and through administrative proceedings
 846 before the department. It is the intent of the Legislature that
 847 such bond ~~shall~~ be applicable and liable only for the payment of
 848 claims duly adjudicated by order of the department. The bond
 849 must ~~shall~~ be open to successive claims, but the aggregate
 850 amount awarded may not exceed the amount of the bond. In
 851 addition to the foregoing, a bond provided by a registrant or
 852 applicant for registration which certifies its business
 853 activities under s. 559.9285(1)(b) or (c) must ~~shall~~ be in favor
 854 of the department, with payment in the following order of
 855 priority:

856 (a) The ~~All~~ expenses for prosecuting the registrant or
 857 applicant in an ~~any~~ administrative or civil action under this
 858 part, including attorney fees ~~for attorneys~~ and fees for other

859 professionals, court costs or other costs of the proceedings,
860 and all other expenses incidental to the action.

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

864 (c) An ~~Any~~ unpaid administrative fine imposed by final
865 order or an ~~any~~ unpaid civil penalty imposed by final judgment
866 under this part.

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

869 (3) A ~~Any~~ traveler may file a claim against the bond. Such
870 claim, which must shall be submitted made in writing on an
871 affidavit form adopted by department rule, must be submitted to
872 the department within 120 days after an alleged injury has
873 occurred or is discovered to have occurred or a judgment has
874 been entered. The proceedings shall be conducted pursuant to
875 chapter 120. For The proceedings conducted pursuant to shall be
876 held in accordance with ss. 120.569 and 120.57, the agency shall
877 act only as a nominal party.

878 (4) Any indebtedness determined by final order of the
879 department shall be paid by the seller of travel to the
880 department within 30 days after the order is entered for
881 disbursement to the consumer. If the seller of travel fails to
882 make payment within 30 days, the agency shall make a demand for
883 payment upon the surety which includes an institution issuing a
884 letter of credit or depository on a certificate of deposit. Upon

885 failure of a surety to comply with a demand for payment pursuant
 886 to a final order, the department may file an action in circuit
 887 court to recover payment, up to the amount of the bond or other
 888 form of security, pursuant to s. 120.69. If the department
 889 prevails, the department may recover court costs and reasonable
 890 attorney fees.

891 (5)~~(4)~~ If ~~In any situation in which~~ the seller of travel
 892 is currently the subject of an administrative, civil, or
 893 criminal action by the department, the Department of Legal
 894 Affairs, or the state attorney relating to ~~concerning~~ compliance
 895 with this part, the right to proceed against the bond as
 896 provided in subsection (3) is ~~shall be~~ suspended until ~~after~~ any
 897 enforcement action becomes final.

898 (6)~~(5)~~ The department may waive the bond requirement on an
 899 annual basis if the seller of travel has had 5 or more
 900 consecutive years of experience as a seller of travel in this
 901 state ~~Florida~~ in compliance with this part, has not had a ~~any~~
 902 civil, criminal, or administrative action instituted against the
 903 seller of travel in the vacation and travel business by a ~~any~~
 904 governmental agency or an ~~any~~ action involving fraud, theft,
 905 misappropriation of property, violation of a ~~any~~ statute
 906 pertaining to business or commerce with a ~~any~~ terrorist state,
 907 or moral turpitude, and has a satisfactory consumer complaint
 908 history with the department, and certifies its business
 909 activities under s. 559.9285. Such waiver may be revoked if the
 910 seller of travel violates ~~any provision of~~ this part. A seller

911 of travel which ~~that~~ certifies its business activities under s.
912 559.9285(1) (b) or (c) is not entitled to the waiver provided in
913 this subsection.

914 Section 19. Effective January 1, 2015, subsection (4) of
915 section 943.059, Florida Statutes, is amended to read:

916 943.059 Court-ordered sealing of criminal history
917 records.—The courts of this state shall continue to have
918 jurisdiction over their own procedures, including the
919 maintenance, sealing, and correction of judicial records
920 containing criminal history information to the extent such
921 procedures are not inconsistent with the conditions,
922 responsibilities, and duties established by this section. Any
923 court of competent jurisdiction may order a criminal justice
924 agency to seal the criminal history record of a minor or an
925 adult who complies with the requirements of this section. The
926 court shall not order a criminal justice agency to seal a
927 criminal history record until the person seeking to seal a
928 criminal history record has applied for and received a
929 certificate of eligibility for sealing pursuant to subsection
930 (2). A criminal history record that relates to a violation of s.
931 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
932 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
933 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
934 916.1075, a violation enumerated in s. 907.041, or any violation
935 specified as a predicate offense for registration as a sexual
936 predator pursuant to s. 775.21, without regard to whether that

937 offense alone is sufficient to require such registration, or for
938 registration as a sexual offender pursuant to s. 943.0435, may
939 not be sealed, without regard to whether adjudication was
940 withheld, if the defendant was found guilty of or pled guilty or
941 nolo contendere to the offense, or if the defendant, as a minor,
942 was found to have committed or pled guilty or nolo contendere to
943 committing the offense as a delinquent act. The court may only
944 order sealing of a criminal history record pertaining to one
945 arrest or one incident of alleged criminal activity, except as
946 provided in this section. The court may, at its sole discretion,
947 order the sealing of a criminal history record pertaining to
948 more than one arrest if the additional arrests directly relate
949 to the original arrest. If the court intends to order the
950 sealing of records pertaining to such additional arrests, such
951 intent must be specified in the order. A criminal justice agency
952 may not seal any record pertaining to such additional arrests if
953 the order to seal does not articulate the intention of the court
954 to seal records pertaining to more than one arrest. This section
955 does not prevent the court from ordering the sealing of only a
956 portion of a criminal history record pertaining to one arrest or
957 one incident of alleged criminal activity. Notwithstanding any
958 law to the contrary, a criminal justice agency may comply with
959 laws, court orders, and official requests of other jurisdictions
960 relating to sealing, correction, or confidential handling of
961 criminal history records or information derived therefrom. This
962 section does not confer any right to the sealing of any criminal

963 history record, and any request for sealing a criminal history
964 record may be denied at the sole discretion of the court.

965 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
966 history record of a minor or an adult which is ordered sealed by
967 a court ~~of competent jurisdiction~~ pursuant to this section is
968 confidential and exempt from the provisions of s. 119.07(1) and
969 s. 24(a), Art. I of the State Constitution and is available only
970 to the person who is the subject of the record, to the subject's
971 attorney, to criminal justice agencies for their respective
972 criminal justice purposes, which include conducting a criminal
973 history background check for approval of firearms purchases or
974 transfers as authorized by state or federal law, to judges in
975 the state courts system for the purpose of assisting them in
976 their case-related decisionmaking responsibilities, as set forth
977 in s. 943.053(5), or to those entities set forth in
978 subparagraphs (a)1., 4., 5., 6., and 8., ~~and 8.~~ for their
979 respective licensing, access authorization, and employment
980 purposes.

981 (a) The subject of a criminal history record sealed under
982 this section or under other provisions of law, including former
983 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
984 deny or fail to acknowledge the arrests covered by the sealed
985 record, except when the subject of the record:

- 986 1. Is a candidate for employment with a criminal justice
987 agency;
- 988 2. Is a defendant in a criminal prosecution;

989 3. Concurrently or subsequently petitions for relief under
 990 this section, s. 943.0583, or s. 943.0585;

991 4. Is a candidate for admission to The Florida Bar;

992 5. Is seeking to be employed or licensed by or to contract
 993 with the Department of Children and Families, the Division of
 994 Vocational Rehabilitation within the Department of Education,
 995 the Agency for Health Care Administration, the Agency for
 996 Persons with Disabilities, the Department of Health, the
 997 Department of Elderly Affairs, or the Department of Juvenile
 998 Justice or to be employed or used by such contractor or licensee
 999 in a sensitive position having direct contact with children, the
 1000 disabled, or the elderly;

1001 6. Is seeking to be employed or licensed by the Department
 1002 of Education, a ~~any~~ district school board, a ~~any~~ university
 1003 laboratory school, a ~~any~~ charter school, a ~~any~~ private or
 1004 parochial school, or a ~~any~~ local governmental entity that
 1005 licenses child care facilities; ~~or~~

1006 7. Is attempting to purchase a firearm from a licensed
 1007 importer, licensed manufacturer, or licensed dealer and is
 1008 subject to a criminal history check under state or federal law;
 1009 or

1010 8. Is seeking to be licensed by the Bureau of License
 1011 Issuance of the Division of Licensing within the Department of
 1012 Agriculture and Consumer Services to carry a concealed weapon or
 1013 concealed firearm. This subparagraph applies only in the
 1014 determination of an applicant's eligibility under s. 790.06.

1015 (b) Subject to the exceptions in paragraph (a), a person
1016 who has been granted a sealing under this section, former s.
1017 893.14, former s. 901.33, or former s. 943.058 may not be held
1018 under any provision of law of this state to commit perjury or to
1019 be otherwise liable for giving a false statement by reason of
1020 such person's failure to recite or acknowledge a sealed criminal
1021 history record.

1022 (c) Information relating to the existence of a sealed
1023 criminal record provided in accordance with the provisions of
1024 paragraph (a) is confidential and exempt from the provisions of
1025 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1026 except that the department shall disclose the sealed criminal
1027 history record to the entities set forth in subparagraphs (a)1.,
1028 4., 5., 6., and 8., ~~and 8.~~ for their respective licensing,
1029 access authorization, and employment purposes. An ~~It is unlawful~~
1030 ~~for any~~ employee of an entity set forth in subparagraph (a)1.,
1031 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
1032 subparagraph (a)8. may not ~~subparagraph (a)8. to~~ disclose
1033 information relating to the existence of a sealed criminal
1034 history record of a person seeking employment, access
1035 authorization, or licensure with such entity or contractor,
1036 except to the person to whom the criminal history record relates
1037 or to persons having direct responsibility for employment,
1038 access authorization, or licensure decisions. A ~~Any~~ person who
1039 violates the provisions of this paragraph commits a misdemeanor
1040 of the first degree, punishable as provided in s. 775.082 or s.

1041 775.083.

1042 Section 20. Section 205.1969, Florida Statutes, is amended
 1043 to read:

1044 205.1969 Health studios; consumer protection.—A county or
 1045 municipality may not issue or renew a business tax receipt for
 1046 the operation of a health studio pursuant to ss. 501.012-501.019
 1047 ~~or ballroom dance studio pursuant to s. 501.143~~, unless such
 1048 business exhibits a current license, registration, or letter of
 1049 exemption from the Department of Agriculture and Consumer
 1050 Services.

1051 Section 21. Subsection (1) of section 472.025, Florida
 1052 Statutes, is amended to read:

1053 472.025 Seals.—

1054 (1) The board shall adopt ~~prescribe~~, by rule, a form of
 1055 seal to be used by all registrants holding valid certificates of
 1056 registration, whether the registrants are corporations,
 1057 partnerships, or individuals. Each registrant shall obtain an
 1058 impression-type metal seal in that form; and all final drawings,
 1059 plans, specifications, plats, or reports prepared or issued by
 1060 the registrant in accordance with the minimum technical
 1061 standards of practice established ~~set~~ by the board shall be
 1062 signed by the registrant, dated, and stamped with his or her
 1063 seal. This signature, date, and seal shall be evidence of the
 1064 authenticity of that to which they are affixed. Each registrant
 1065 may in addition register his or her seal electronically in
 1066 accordance with ss. 668.001-668.006. Drawings, plans,

CS/CS/HB 7051

2014

1067 specifications, reports, or documents prepared or issued by a
1068 registrant may be transmitted electronically and may be signed
1069 by the registrant, dated, and stamped electronically with such
1070 seal in accordance with ss. 668.001-668.006.

1071 Section 22. Subsection (6) of section 501.015, Florida
1072 Statutes, is amended to read:

1073 501.015 Health studios; registration requirements and
1074 fees.—Each health studio shall:

1075 (6) Be considered a new health studio and shall be subject
1076 to the requirements of s. 501.016 each time the health studio
1077 changes ownership or, in the case of corporate ownership, each
1078 time the stock ownership is changed so as to effectively put the
1079 health studio under new management or control, notwithstanding
1080 the provisions of s. 501.016(8) ~~501.016(6)~~. A change of
1081 ownership does not occur within the meaning of this subsection
1082 if:

1083 (a) Substantially the same stockholders form a new
1084 corporate entity;

1085 (b) In the opinion of the department, the change does not
1086 effectively place the health studio under new management and
1087 control; and

1088 (c) The health studio has a satisfactory complaint history
1089 with the department.

1090 Section 23. Paragraph (a) of subsection (1) of section
1091 627.7842, Florida Statutes, is amended to read:

1092 627.7842 Policy exceptions.—

1093 (1) (a) If a survey meeting the ~~minimum technical~~ standards
 1094 of practice for surveying required by the Department of
 1095 Agriculture and Consumer Services Business and Professional
 1096 ~~Regulation~~ and certified to the title insurer by a registered
 1097 Florida surveyor has been completed on the property within 90
 1098 days before the date of closing, the title policy may only
 1099 except from coverage the encroachments, overlays, boundary line
 1100 disputes, and other matters which are actually shown on the
 1101 survey.

1102 Section 24. Paragraph (e) of subsection (4) of section
 1103 718.104, Florida Statutes, is amended to read:

1104 718.104 Creation of condominiums; contents of
 1105 declaration.—Every condominium created in this state shall be
 1106 created pursuant to this chapter.

1107 (4) The declaration must contain or provide for the
 1108 following matters:

1109 (e) A survey of the land which meets the ~~minimum technical~~
 1110 standards of practice established ~~set forth~~ by the Board of
 1111 Professional Surveyors and Mappers, pursuant to s. 472.027, and
 1112 a graphic description of the improvements in which units are
 1113 located and a plot plan thereof that, together with the
 1114 declaration, are in sufficient detail to identify the common
 1115 elements and each unit and their relative locations and
 1116 approximate dimensions. Failure of the survey to meet the
 1117 ~~minimum technical~~ standards of practice ~~does shall~~ not
 1118 invalidate an otherwise validly created condominium. The survey,

1119 | graphic description, and plot plan may be in the form of
1120 | exhibits consisting of building plans, floor plans, maps,
1121 | surveys, or sketches. If the construction of the condominium is
1122 | not substantially completed, there shall be a statement to that
1123 | effect, and, upon substantial completion of construction, the
1124 | developer or the association shall amend the declaration to
1125 | include the certificate described below. The amendment may be
1126 | accomplished by referring to the recording data of a survey of
1127 | the condominium that complies with the certificate. A
1128 | certificate of a surveyor and mapper authorized to practice in
1129 | this state shall be included in or attached to the declaration
1130 | or the survey or graphic description as recorded under s.
1131 | 718.105 that the construction of the improvements is
1132 | substantially complete so that the material, together with the
1133 | provisions of the declaration describing the condominium
1134 | property, is an accurate representation of the location and
1135 | dimensions of the improvements and so that the identification,
1136 | location, and dimensions of the common elements and of each unit
1137 | can be determined from these materials. Completed units within
1138 | each substantially completed building in a condominium
1139 | development may be conveyed to purchasers, notwithstanding that
1140 | other buildings in the condominium are not substantially
1141 | completed, provided that all planned improvements, including,
1142 | but not limited to, landscaping, utility services and access to
1143 | the unit, and common-element facilities serving such building,
1144 | as set forth in the declaration, are first completed and the

1145 declaration of condominium is first recorded and provided that
1146 as to the units being conveyed there is a certificate of a
1147 surveyor and mapper as required above, including certification
1148 that all planned improvements, including, but not limited to,
1149 landscaping, utility services and access to the unit, and
1150 common-element facilities serving the building in which the
1151 units to be conveyed are located have been substantially
1152 completed, and such certificate is recorded with the original
1153 declaration or as an amendment to such declaration. This section
1154 does ~~shall~~ not, however, operate to require development of
1155 improvements and amenities declared to be included in future
1156 phases pursuant to s. 718.403 before ~~prior to~~ conveying a unit
1157 as provided in this paragraph herein. For the purposes of this
1158 section, a "certificate of a surveyor and mapper" means
1159 certification by a surveyor and mapper in the form provided in
1160 this paragraph herein and may include, along with certification
1161 by a surveyor and mapper, when appropriate, certification by an
1162 architect or engineer authorized to practice in this state.
1163 Notwithstanding the requirements of substantial completion
1164 provided in this section, this paragraph does not ~~nothing~~
1165 ~~contained herein shall~~ prohibit or impair the validity of a
1166 mortgage encumbering units together with an undivided interest
1167 in the common elements as described in a declaration of
1168 condominium recorded before ~~prior to~~ the recording of a
1169 certificate of a surveyor and mapper as provided in this
1170 paragraph herein.

1171 Section 25. For the 2014-2015 fiscal year, the sum of
1172 \$35,745 in nonrecurring funds is appropriated to the Department
1173 of Law Enforcement from the Operating Trust Fund for contracted
1174 services and operating capital outlay related to sealed criminal
1175 history records. To support this appropriation, funds in this
1176 amount shall be transferred from the Division of Licensing Trust
1177 Fund of the Department of Agriculture and Consumer Services to
1178 the Operating Trust Fund of the Department of Law Enforcement.

1179 Section 26. Except as otherwise expressly provided in this
1180 act, this act shall take effect July 1, 2014.