

By Senator Hutson

7-01620A-19

20191788__

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 501.059, F.S.;
4 authorizing consumers to bring civil actions against
5 telephone solicitors; providing for the award of
6 damages; amending s. 501.603, F.S.; providing a
7 definition; amending s. 501.604, F.S.; providing that
8 substance abuse marketing service providers are
9 subject to the Florida Telemarketing Act; amending s.
10 501.605, F.S.; conforming provisions to changes made
11 by the act; creating s. 501.6055, F.S.; providing
12 licensing requirements for substance abuse marketing
13 service providers; amending s. 501.606, F.S.;
14 requiring such providers to disclose specified
15 information; amending s. 501.608, F.S.; revising
16 provisions for claims of exemption from the Florida
17 Telemarketing Act; amending s. 501.609, F.S.;
18 requiring substance abuse marketing service providers
19 to submit new or revised material to the department
20 within a specified time; amending s. 501.612, F.S.;
21 providing grounds for departmental action against such
22 providers; amending s. 501.616, F.S.; providing
23 unlawful acts and practices for such providers;
24 amending s. 501.618, F.S.; providing general civil
25 remedies in actions against such providers; amending
26 s. 507.01, F.S.; revising definitions; amending s.
27 507.03, F.S.; requiring separate registrations for
28 each business, trade, or fictitious name used by a
29 mover or moving broker; authorizing movers to act as

7-01620A-19

20191788__

30 moving brokers without a separate registration under
31 certain conditions; revising the conditions for
32 denying, refusing to renew, or revoking the
33 registrations of movers and moving brokers; requiring
34 movers and moving brokers to provide evidence of
35 insurance or alternative coverages at specified times;
36 requiring movers and moving brokers to maintain
37 estimates and contracts for a specified time and to
38 make such records available for inspection by the
39 department; amending s. 507.04, F.S.; revising
40 requirements for alternative insurance coverage and
41 liability insurance claims; amending s. 507.06, F.S.;
42 revising provisions authorizing movers to store
43 household goods until payment is made; amending s.
44 507.07, F.S.; providing violations; amending s.
45 507.11, F.S.; revising criminal penalties; creating s.
46 507.15, F.S.; directing the department to prepare and
47 post on its website a publication regarding shippers'
48 rights and remedies; specifying information to be
49 included in such publication; requiring movers to
50 provide a copy of such publication to shippers before
51 executing a contract; amending s. 527.0201, F.S.;
52 revising master qualifier licensing requirements;
53 amending s. 616.242, F.S.; providing and revising
54 definitions; revising standards for rules adopted by
55 the department relating to amusement rides; revising
56 provisions for permanent amusement ride annual
57 permits; providing for temporary amusement ride
58 permits; revising provisions for nondestructive

7-01620A-19

20191788__

59 testing and department testing of amusement rides;
60 removing the exemption from safety standards for
61 certain museums and institutions; removing the
62 limitation on the authority of the department to
63 establish exemptions from safety standards; revising
64 inspection standards for amusement rides; directing
65 the department to prescribe by rule specified signage
66 to be posted at amusement ride facilities and
67 temporary amusement ride events; requiring owners of
68 amusement rides to employ registered safety
69 technicians; providing requirements for such
70 technicians; revising requirements for compliance
71 certifications after major modifications to amusement
72 rides; revising requirements for amusement ride
73 inspections by owners, managers, and registered safety
74 technicians; revising requirements for employee
75 training; providing maintenance requirements for
76 amusement rides; providing for witnesses and evidence
77 in examinations and investigations conducted by the
78 department; revising penalties; providing an effective
79 date.

80

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

82

83 Section 1. Subsections (10) through (12) of section
84 501.059, Florida Statutes, are renumbered as subsections (11)
85 through (13), respectively, and a new subsection (10) is added
86 to that section to read:

87 501.059 Telephone solicitation.-

7-01620A-19

20191788__

88 (10) A consumer may bring a civil action in a court of
89 competent jurisdiction against a person who has made or caused
90 to be made more than one telephonic sales call to the consumer
91 within any 12-month period in violation of this section. A
92 person who fails to comply with this section is liable for
93 actual damages and for additional statutory damages as the court
94 may allow in an amount not to exceed \$500 per violation. If the
95 court finds that any violation of this section was committed
96 willfully or knowingly, it may, in its discretion, increase the
97 amount of the additional statutory damages by an amount not to
98 exceed \$1,500 per violation. The court may also enjoin the
99 defendant from further violations of this section.

100 Section 2. Subsection (13) is added to section 501.603,
101 Florida Statutes, to read:

102 501.603 Definitions.—As used in this part, unless the
103 context otherwise requires, the term:

104 (13) "Substance abuse marketing service provider" means any
105 entity providing substance abuse advertising or marketing
106 services to any service provider or operator of a recovery
107 residence as described in s. 397.55. The term includes, but is
108 not limited to, owners, operators, officers, directors,
109 partners, or other individuals engaged in the management
110 activities of a business entity pursuant to this part.

111 Section 3. Section 501.604, Florida Statutes, is amended to
112 read:

113 501.604 Exemptions.—~~The provisions of~~ This part, except ss.
114 501.608 and 501.616(6) and (7), does ~~de~~ not apply to:

115 (1) A person engaging in commercial telephone solicitation
116 when ~~where~~ the solicitation is an isolated transaction and not

7-01620A-19

20191788__

117 done in the course of a pattern of repeated similar transactions
118 ~~of like nature.~~

119 (2) A person soliciting for religious, charitable,
120 political, or educational purposes. A person soliciting for
121 other noncommercial purposes is exempt only if that person is
122 soliciting for a nonprofit corporation and if that corporation
123 is properly registered as such with the Secretary of State and
124 is included within the exemption of s. 501(c) (3) or (6) of the
125 Internal Revenue Code.

126 ~~(3) A person who does not make the major sales presentation
127 during the telephone solicitation and who does not intend to,
128 and does not actually, complete or obtain provisional acceptance
129 of a sale during the telephone solicitation, but who makes the
130 major sales presentation and completes the sale at a later face-
131 to-face meeting between the seller and the prospective purchaser
132 in accordance with the home solicitation provisions in this
133 chapter. However, if a seller, directly following a telephone
134 solicitation, causes an individual whose primary purpose it is
135 to go to the prospective purchaser to collect the payment or
136 deliver any item purchased, this exemption does not apply.~~

137 (3)~~(4)~~ A licensed securities, commodities, or investment
138 broker, dealer, or investment adviser, when soliciting within
139 the scope of his or her license, or a licensed associated person
140 of a securities, commodities, or investment broker, dealer, or
141 investment adviser, when soliciting within the scope of his or
142 her license. As used in this section, the term "licensed
143 securities, commodities, or investment broker, dealer, or
144 investment adviser" means a person subject to license or
145 registration as such by the Securities and Exchange Commission,

7-01620A-19

20191788__

146 by the Financial Industry Regulatory Authority or other self-
147 regulatory organization as defined by the Securities Exchange
148 Act of 1934, 15 U.S.C. s. 781, or by an official or agency of
149 this state or of any state of the United States. As used in this
150 section, the term "licensed associated person of a securities,
151 commodities, or investment broker, dealer, or investment
152 adviser" means an associated person registered or licensed by
153 the Financial Industry Regulatory Authority or other self-
154 regulatory organization as defined by the Securities Exchange
155 Act of 1934, 15 U.S.C. s. 781, or by an official or agency of
156 this state or of any state of the United States.

157 ~~(4)-(5)~~ A person primarily soliciting the sale of a
158 newspaper of general circulation.

159 ~~(6) A book, video, or record club or contractual plan or~~
160 ~~arrangement:~~

161 ~~(a) Under which the seller provides the consumer with a~~
162 ~~form which the consumer may use to instruct the seller not to~~
163 ~~ship the offered merchandise.~~

164 ~~(b) Which is regulated by the Federal Trade Commission~~
165 ~~trade regulation concerning "use of negative option plans by~~
166 ~~sellers in commerce."~~

167 ~~(c) Which provides for the sale of books, records, or~~
168 ~~videos which are not covered under paragraph (a) or paragraph~~
169 ~~(b), including continuity plans, subscription arrangements,~~
170 ~~standing order arrangements, supplements, and series~~
171 ~~arrangements under which the seller periodically ships~~
172 ~~merchandise to a consumer who has consented in advance to~~
173 ~~receive such merchandise on a periodic basis.~~

174 ~~(5)-(7)~~ A supervised financial institution or parent,

7-01620A-19

20191788__

175 subsidiary, or affiliate thereof operating within the scope of
176 supervised activity. As used in this section, the term
177 "supervised financial institution" means a commercial bank,
178 trust company, savings and loan association, mutual savings
179 bank, credit union, industrial loan company, consumer finance
180 lender, commercial finance lender, or insurer, provided that the
181 institution is subject to supervision by an official or agency
182 of this state, of any state, or of the United States. For the
183 purposes of this exemption, the term "affiliate" means a person
184 who directly, or indirectly through one or more intermediaries,
185 controls or is controlled by, or is under common control with, a
186 supervised financial institution.

187 (6)~~(8)~~ Any licensed insurance broker, agent, customer
188 representative, or solicitor when soliciting within the scope of
189 his or her license. As used in this section, the term "licensed
190 insurance broker, agent, customer representative, or solicitor"
191 means any insurance broker, agent, customer representative, or
192 solicitor licensed by an official or agency of this state or of
193 any state of the United States.

194 (7)~~(9)~~ A person soliciting the sale of services provided by
195 a cable television system operating under authority of a
196 franchise or permit.

197 (8)~~(10)~~ A business-to-business sale when ~~where~~:

198 (a) The commercial telephone seller has been lawfully
199 operating continuously for at least 3 years under the same
200 business name and has at least 50 percent of its dollar volume
201 consisting of repeat sales to existing businesses;

202 (b) The purchaser business intends to resell or offer for
203 purposes of advertisement or as a promotional item the property

7-01620A-19

20191788__

204 or goods purchased; or

205 (c) The purchaser business intends to use the property or
206 goods purchased in a recycling, reuse, remanufacturing, or
207 manufacturing process.

208 ~~(11) A person who solicits sales by periodically publishing~~
209 ~~and delivering a catalog of the seller's merchandise to~~
210 ~~prospective purchasers, if the catalog:~~

211 ~~(a) Contains a written description or illustration of each~~
212 ~~item offered for sale.~~

213 ~~(b) Includes the business address or home office address of~~
214 ~~the seller.~~

215 ~~(c) Includes at least 20 pages of written material and~~
216 ~~illustrations and is distributed in more than one state.~~

217 ~~(d) Has an annual circulation by mailing of not less than~~
218 ~~150,000.~~

219 (9)~~(12)~~ A person who solicits contracts for the maintenance
220 or repair of goods previously purchased from the person making
221 the solicitation or on whose behalf the solicitation is made.

222 (10)~~(13)~~ A commercial telephone seller licensed pursuant to
223 chapter 516 or part III of chapter 520. For purposes of this
224 exemption, the seller must solicit to sell a consumer good or
225 service within the scope of his or her license and the completed
226 transaction must be subject to ~~the provisions of~~ chapter 516 or
227 part III of chapter 520.

228 (11)~~(14)~~ A telephone company subject to chapter 364, or
229 affiliate thereof or its agents, or a telecommunications
230 business that is regulated by the Florida Public Service
231 Commission, or a Federal Communications Commission licensed
232 cellular telephone company or other bona fide radio

7-01620A-19

20191788__

233 telecommunication services provider. For the purposes of this
234 exemption, the term "affiliate" means a person who directly, or
235 indirectly through one or more intermediaries, controls or is
236 controlled by, or is under common control with, a telephone
237 company subject to chapter 364.

238 (12)~~(15)~~ A person who is licensed pursuant to chapter 497
239 and who is soliciting within the scope of the license.

240 (13)~~(16)~~ An issuer or a subsidiary of an issuer that has a
241 class of securities which is subject to s. 12 of the Securities
242 Exchange Act of 1934, 15 U.S.C. s. 781, and which is either
243 registered or exempt from registration under paragraph (A),
244 paragraph (B), paragraph (C), paragraph (E), paragraph (F),
245 paragraph (G), or paragraph (H) of subsection (g) (2) of that
246 section.

247 ~~(17) A business soliciting exclusively the sale of~~
248 ~~telephone answering services provided that the telephone~~
249 ~~answering services will be supplied by the solicitor.~~

250 (14)~~(18)~~ A person soliciting a transaction regulated by the
251 Commodity Futures Trading Commission if the person is registered
252 or temporarily licensed for this activity with the Commodity
253 Futures Trading Commission under the Commodity Exchange Act, 7
254 U.S.C. ss. 1 et seq., and the registration or license has not
255 expired or been suspended or revoked.

256 (15)~~(19)~~ A person soliciting the sale of food or produce as
257 defined in chapter 500 or chapter 504 if the solicitation
258 neither intends to result in, or actually results in, a sale
259 which costs the purchaser in excess of \$500.

260 (16)~~(20)~~ A person who is registered pursuant to part XI of
261 chapter 559 and who is soliciting within the scope of the

7-01620A-19

20191788__

262 registration.

263 (17)~~(21)~~ A person soliciting business from prospective
264 consumers who have an existing business relationship with or who
265 have previously purchased from the business enterprise for which
266 the solicitor is calling, if the solicitor is operating under
267 the same exact business name.

268 ~~(22) A person who has been operating, for at least 1 year,~~
269 ~~a retail business establishment under the same name as that used~~
270 ~~in connection with telemarketing, and both of the following~~
271 ~~occur on a continuing basis:~~

272 ~~(a) Either products are displayed and offered for sale or~~
273 ~~services are offered for sale and provided at the business~~
274 ~~establishment.~~

275 ~~(b) A majority of the seller's business involves the buyer~~
276 ~~obtaining such products or services at the seller's location.~~

277 (18)~~(23)~~ A person who is a registered developer or exchange
278 company pursuant to chapter 721 and who is soliciting within the
279 scope of the chapter.

280 ~~(24) Any person who has been lawfully providing~~
281 ~~telemarketing sales services continuously for at least 5 years~~
282 ~~under the same ownership and control and who derives 75 percent~~
283 ~~of its gross telemarketing sales revenues from contracts with~~
284 ~~persons exempted in this section.~~

285 (19)~~(25)~~ A person licensed pursuant to chapter 475 and who
286 is soliciting within the scope of the chapter.

287 ~~(26) A publisher, or an agent of a publisher by written~~
288 ~~agreement, who solicits the sale of his or her periodical or~~
289 ~~magazine of general, paid circulation. The term "paid~~
290 ~~circulation" shall not include magazines that are only~~

7-01620A-19

20191788__

291 ~~circulated as part of a membership package or that are given as~~
 292 ~~a free gift or prize from the publisher or agent of the~~
 293 ~~publisher by written agreement.~~

294 (20)~~(27)~~ A person who is a licensed operator or an
 295 identification cardholder as defined in chapter 482, and who is
 296 soliciting within the scope of the chapter.

297 (21)~~(28)~~ A licensee, or an affiliate of a licensee,
 298 regulated under chapter 560, the Money Transmitters' Code, for
 299 foreign currency exchange services.

300

301 This section does not apply to substance abuse marketing service
 302 providers.

303 Section 4. Section 501.605, Florida Statutes, is amended to
 304 read:

305 501.605 Licensure of commercial telephone sellers ~~and~~
 306 ~~entities providing substance abuse marketing services.-~~

307 (1) Before doing business in this state, a commercial
 308 telephone seller ~~or an entity providing substance abuse~~
 309 ~~marketing services in accordance with s. 397.55~~ shall obtain a
 310 license from the department. Doing business in this state
 311 includes ~~either~~ telephone solicitation from a location in
 312 Florida or solicitation from other states or nations of
 313 purchasers located in Florida.

314 (2) An applicant for a license as a commercial telephone
 315 seller ~~or as an entity providing substance abuse marketing~~
 316 ~~services~~ must submit to the department, in such form as it
 317 prescribes, a written application for the license. The
 318 application must state ~~set forth~~ the following information:

319 (a) The true name, date of birth, driver license number or

7-01620A-19

20191788__

320 other valid form of identification, and home address of the
321 applicant, including each name under which he or she intends to
322 do business.

323 (b) Each business or occupation engaged in by the applicant
324 during the 3 years immediately preceding the date of the
325 application, and the location thereof.

326 (c) The previous experience of the applicant as a
327 commercial telephone seller or salesperson ~~or as an entity~~
328 ~~providing substance abuse marketing services.~~

329 (d) Whether the applicant has previously been arrested for
330 or convicted of, or is under indictment or information for, a
331 felony and, if so, the nature of the felony. Conviction includes
332 a finding of guilt where adjudication has been withheld.

333 (e) Whether the applicant has previously been convicted of,
334 or is under indictment or information for, racketeering or any
335 offense involving fraud, theft, embezzlement, fraudulent
336 conversion, or misappropriation of property. Conviction includes
337 a finding of guilt where adjudication has been withheld.

338 (f) Whether there has ever been a judicial or
339 administrative finding that the applicant has previously been
340 convicted of acting as a salesperson without a license, or
341 whether such a license has previously been refused, revoked, or
342 suspended in any jurisdiction.

343 (g) Whether the applicant has worked for, or been
344 affiliated with, a company that has had entered against it an
345 injunction, a temporary restraining order, or a final judgment
346 or order, including a stipulated judgment or order, an assurance
347 of voluntary compliance, or any similar document, in any civil
348 or administrative action involving racketeering, fraud, theft,

7-01620A-19

20191788__

349 embezzlement, fraudulent conversion, or misappropriation of
350 property or the use of any untrue, deceptive, or misleading
351 representation or the use of any unfair, unlawful, or deceptive
352 trade practice.

353 (h) Whether the applicant has had entered against him or
354 her an injunction, a temporary restraining order, or a final
355 judgment or order, including a stipulated judgment or order, an
356 assurance of voluntary compliance, or any similar document, in
357 any civil or administrative action involving racketeering,
358 fraud, theft, embezzlement, fraudulent conversion, or
359 misappropriation of property or the use of any untrue,
360 deceptive, or misleading representation or the use of any
361 unfair, unlawful, or deceptive trade practice; and whether ~~or~~
362 ~~not~~ there is any litigation pending against the applicant.

363 (i) The name of any parent or affiliated entity that:

364 1. Will engage in a business transaction with the purchaser
365 relating to any sale solicited by the applicant; or

366 2. Accepts responsibility or is otherwise held out by the
367 applicant as being responsible for any statement or act of the
368 applicant relating to any sale solicited by the applicant.

369 (j) The complete street address of each location,
370 designating the principal location, from which the applicant
371 will be doing business. The street address may not be a mail
372 drop.

373 (k) A list of all telephone numbers to be used by the
374 applicant, with the address where each telephone using these
375 numbers will be located.

376 (l) The true name, current home address, date of birth, and
377 all other names by which known, or previously known, of each:

7-01620A-19

20191788__

378 1. Principal officer, director, trustee, shareholder,
379 owner, or partner of the applicant, and of each other person
380 responsible for the management of the business of the applicant.

381 2. Office manager or other person principally responsible
382 for a location from which the applicant will do business.

383 3. Salesperson or other person to be employed by the
384 applicant.

385

386 The application shall be accompanied by a copy of any+ script,
387 outline, or presentation the applicant will require or suggest a
388 salesperson to use when soliciting, or, if no such document is
389 used, a statement to that effect; sales information or
390 literature to be provided by the applicant to a salesperson; and
391 sales information or literature to be provided by the applicant
392 to a purchaser in connection with any solicitation.

393 (3) When an application states ~~sets forth~~ information
394 regarding an applicant as described in paragraphs (2) (d)-(h),
395 the applicant must:

396 (a) Identify the court or administrative agency rendering
397 the conviction, judgment, or order against the applicant ~~person~~
398 or pending litigation.

399 (b) Provide the docket number of the matter; the date of
400 the conviction, judgment, or order; and the name of the
401 governmental agency, if any, that brought the action resulting
402 in the conviction, judgment, or order. The applicant must also
403 include litigation.

404 (4) If the applicant is other than a natural person, or if
405 any parent or affiliated entity is identified pursuant to
406 paragraph (2) (i), the applicant must, for itself and for any

7-01620A-19

20191788__

407 such entity, identify its place of organization and:

408 (a) In the case of a partnership, provide a copy of any
409 written partnership agreement; or

410 (b) In the case of a corporation, provide a copy of its
411 articles of incorporation and bylaws.

412 (5) An application filed pursuant to this part must be
413 verified and accompanied by:

414 (a) A bond, letter of credit, or certificate of deposit
415 satisfying the requirements of s. 501.611. ~~An entity providing~~
416 ~~substance abuse marketing services in accordance with s. 397.55~~
417 ~~is exempt from this requirement.~~

418 (b) A fee for licensing in the amount of \$1,500. The fee
419 shall be deposited into the General Inspection Trust Fund. The
420 department shall waive the initial license fee for an honorably
421 discharged veteran of the United States Armed Forces, the spouse
422 or surviving spouse of such a veteran, a current member of the
423 United States Armed Forces who has served on active duty, the
424 spouse of such a member, the surviving spouse of a member of the
425 United States Armed Forces if such member died while serving on
426 active duty, or a business entity that has a majority ownership
427 held by such a veteran or spouse or surviving spouse if the
428 department receives an application, in a format prescribed by
429 the department. The application format must include the
430 applicant's signature, under penalty of perjury, and supporting
431 documentation. To qualify for the waiver:

432 1. A veteran must provide to the department a copy of his
433 or her DD Form 214, as issued by the United States Department of
434 Defense, or another acceptable form of identification as
435 specified by the Department of Veterans' Affairs;

7-01620A-19

20191788__

436 2. The spouse or surviving spouse of a veteran must provide
437 to the department a copy of the veteran's DD Form 214, as issued
438 by the United States Department of Defense, or another
439 acceptable form of identification as specified by the Department
440 of Veterans' Affairs, and a copy of a valid marriage license or
441 certificate verifying that he or she was lawfully married to the
442 veteran at the time of discharge; or

443 3. A business entity must provide to the department proof
444 that a veteran or the spouse or surviving spouse of a veteran
445 holds a majority ownership in the business, a copy of the
446 veteran's DD Form 214, as issued by the United States Department
447 of Defense, or another acceptable form of identification as
448 specified by the Department of Veterans' Affairs, and, if
449 applicable, a copy of a valid marriage license or certificate
450 verifying that the spouse or surviving spouse of the veteran was
451 lawfully married to the veteran at the time of discharge.

452 (6) The department shall issue a license number to all
453 commercial telephone sellers.

454 (7) It is a violation of this part for a commercial
455 telephone seller ~~or an entity providing substance abuse~~
456 ~~marketing services~~ to:

457 (a) Fail to maintain a valid license.

458 (b) Advertise that one is licensed as a commercial seller
459 ~~or as an entity providing substance abuse marketing services~~ or
460 represent that such licensing constitutes approval or
461 endorsement by any government or governmental office or agency.

462 (c) Provide inaccurate or incomplete information to the
463 department when making a license application.

464 (d) Misrepresent that one ~~a person~~ is registered or that

7-01620A-19

20191788__

465 ~~one such a person~~ has a valid license number.

466 Section 5. Section 501.6055, Florida Statutes, is created
467 to read:

468 501.6055 Licensure of substance abuse marketing service
469 providers.-

470 (1) Before doing business in this state, a substance abuse
471 marketing service provider shall obtain a license from the
472 department. Doing business in this state includes providing
473 substance abuse marketing services to entities located in
474 Florida or, with the intent to interact with a consumer
475 interested in substance abuse services, making or receiving
476 telephone calls at a location in Florida, or making telephone
477 calls to a consumer located in Florida.

478 (2) An applicant for a license as a substance abuse
479 marketing service provider must submit to the department, in
480 such form as it prescribes, a written application for the
481 license. The application must state the following information:

482 (a) The true name, date of birth, driver license number or
483 other valid form of identification, and home address of the
484 applicant, including each name under which he or she intends to
485 do business.

486 (b) Each business or occupation engaged in by the applicant
487 during the 3 years immediately preceding the date of the
488 application, and the location thereof.

489 (c) The previous experience of the applicant as a substance
490 abuse marketing service provider.

491 (d) Whether the applicant has previously been arrested for
492 or convicted of, or is under indictment or information for, a
493 felony and, if so, the nature of the felony. Conviction includes

7-01620A-19

20191788__

494 a finding of guilt where adjudication has been withheld.

495 (e) Whether the applicant has previously been convicted of,
496 or is under indictment or information for, racketeering or any
497 offense involving fraud, theft, embezzlement, fraudulent
498 conversion, or misappropriation of property. Conviction includes
499 a finding of guilt where adjudication has been withheld.

500 (f) Whether there has ever been a judicial or
501 administrative finding that the applicant has previously been
502 convicted of acting as a salesperson without a license, or
503 whether such a license has previously been refused, revoked, or
504 suspended in any jurisdiction.

505 (g) Whether the applicant has worked for, or been
506 affiliated with, a company that has had entered against it an
507 injunction, a temporary restraining order, or a final judgment
508 or order, including a stipulated judgment or order, an assurance
509 of voluntary compliance, or any similar document, in any civil
510 or administrative action involving racketeering, fraud, theft,
511 embezzlement, fraudulent conversion, or misappropriation of
512 property or the use of any untrue, deceptive, or misleading
513 representation or the use of any unfair, unlawful, or deceptive
514 trade practice.

515 (h) Whether the applicant has had entered against him or
516 her an injunction, a temporary restraining order, or a final
517 judgment or order, including a stipulated judgment or order, an
518 assurance of voluntary compliance, or any similar document, in
519 any civil or administrative action involving racketeering,
520 fraud, theft, embezzlement, fraudulent conversion, or
521 misappropriation of property or the use of any untrue,
522 deceptive, or misleading representation or the use of any

7-01620A-19

20191788__

523 unfair, unlawful, or deceptive trade practice; and whether there
524 is any litigation pending against the applicant.

525 (i) The name of any parent or affiliated entity that:

526 1. Will engage in a business transaction with the purchaser
527 relating to any sale solicited by the applicant; or

528 2. Accepts responsibility or is otherwise held out by the
529 applicant as being responsible for any statement or act of the
530 applicant relating to any sale solicited by the applicant.

531 (j) The complete street address of each location,
532 designating the principal location, from which the applicant
533 will be doing business. The street address may not be a mail
534 drop.

535 (k) A list of all telephone numbers to be used by the
536 applicant, with the address where each telephone using these
537 numbers will be located.

538 (l) The true name, current home address, date of birth, and
539 all other names by which known, or previously known, of each:

540 1. Principal officer, director, trustee, shareholder,
541 owner, or partner of the applicant, and of each other person
542 responsible for the management of the business of the applicant.

543 2. Office manager or other person principally responsible
544 for a location from which the applicant will do business.

545 3. Persons to be employed by the applicant to make or
546 answer telephone calls.

547
548 The application shall be accompanied by a copy of any script,
549 outline, or presentation the applicant will require or suggest a
550 person to use when making or answering telephone calls in the
551 conduct of business as a substance abuse marketing service

7-01620A-19

20191788

552 provider, or, if no such document is used, a statement to that
553 effect; literature to be provided by the applicant to a person
554 employed to make or answer calls on behalf of the substance
555 abuse marketing service provider; and literature to be provided
556 by the applicant to a consumer who requests assistance with
557 substance abuse services.

558 (3) When an application states information regarding an
559 applicant as described in paragraphs (2) (d)-(h), the applicant
560 must:

561 (a) Identify the court or administrative agency rendering
562 the conviction, judgment, or order against the applicant or
563 pending litigation.

564 (b) Provide the docket number of the matter; the date of
565 the conviction, judgment, or order; and the name of the
566 governmental agency, if any, that brought the action resulting
567 in the conviction, judgment, or order.

568 (4) If the applicant is other than a natural person, or if
569 any parent or affiliated entity is identified pursuant to
570 paragraph (2) (i), the applicant must, for itself and for any
571 such entity, identify its place of organization and:

572 (a) In the case of a partnership, provide a copy of any
573 written partnership agreement; or

574 (b) In the case of a corporation, provide a copy of its
575 articles of incorporation and bylaws.

576 (5) An application filed pursuant to this part must be
577 verified and accompanied by a fee for licensing in the amount of
578 \$1,500. The fee shall be deposited into the General Inspection
579 Trust Fund. The department shall waive the initial license fee
580 for an honorably discharged veteran of the United States Armed

7-01620A-19

20191788__

581 Forces, the spouse or surviving spouse of such a veteran, a
582 current member of the United States Armed Forces who has served
583 on active duty, the spouse of such a member, the surviving
584 spouse of a member of the United States Armed Forces if such
585 member died while serving on active duty, or a business entity
586 that has a majority ownership held by such a veteran or spouse
587 or surviving spouse if the department receives an application,
588 in a format prescribed by the department. The application format
589 must include the applicant's signature, under penalty of
590 perjury, and supporting documentation. To qualify for the
591 waiver:

592 (a) A veteran must provide to the department a copy of his
593 or her DD Form 214, as issued by the United States Department of
594 Defense, or another acceptable form of identification as
595 specified by the Department of Veterans' Affairs;

596 (b) The spouse or surviving spouse of a veteran must
597 provide to the department a copy of the veteran's DD Form 214,
598 as issued by the United States Department of Defense, or another
599 acceptable form of identification as specified by the Department
600 of Veterans' Affairs, and a copy of a valid marriage license or
601 certificate verifying that he or she was lawfully married to the
602 veteran at the time of discharge; or

603 (c) A business entity must provide to the department proof
604 that a veteran or the spouse or surviving spouse of a veteran
605 holds a majority ownership in the business, a copy of the
606 veteran's DD Form 214, as issued by the United States Department
607 of Defense, or another acceptable form of identification as
608 specified by the Department of Veterans' Affairs, and, if
609 applicable, a copy of a valid marriage license or certificate

7-01620A-19

20191788__

610 verifying that the spouse or surviving spouse of the veteran was
 611 lawfully married to the veteran at the time of discharge.

612 (6) The department shall issue a license number to all
 613 substance abuse marketing service providers.

614 (7) It is a violation of this part for a substance abuse
 615 marketing service provider to:

616 (a) Fail to maintain a valid license.

617 (b) Advertise that one is licensed as an entity providing
 618 substance abuse marketing services or represent that such
 619 licensing constitutes approval or endorsement by any government
 620 or governmental office or agency.

621 (c) Provide inaccurate or incomplete information to the
 622 department when making a license application.

623 (d) Misrepresent that one is registered or that one has a
 624 valid license number.

625 Section 6. Subsections (1) and (3) of section 501.606,
 626 Florida Statutes, are amended to read:

627 501.606 Disclosures required of commercial telephone
 628 sellers and ~~entities providing~~ substance abuse marketing service
 629 providers services.-

630 (1) With respect to any person identified pursuant to s.
 631 501.605(2)(a), s. 501.605(2)(i), s. 501.605(2)(l), s.
 632 501.6055(2)(a), s. 501.6055(2)(i), or s. 501.6055(2)(l) ~~s.~~
 633 501.605, an applicant for a license as a commercial telephone
 634 seller or as ~~an entity providing~~ substance abuse marketing
 635 service provider services must state in his or her application
 636 the identity of any affiliated commercial seller, ~~or~~
 637 salesperson, or marketing service provider who:

638 (a) Has been convicted of, or is under indictment or

7-01620A-19

20191788__

639 information for, racketeering or any offense involving fraud,
640 theft, embezzlement, fraudulent conversion, or misappropriation
641 of property. Conviction includes a finding of guilt where
642 adjudication has been withheld;

643 (b) Is involved in pending litigation or has had entered
644 against him or her an injunction, a temporary restraining order,
645 or a final judgment or order, including a stipulated judgment or
646 order, an assurance of voluntary compliance, or any similar
647 document, in any civil or administrative action involving
648 racketeering, fraud, theft, embezzlement, fraudulent conversion,
649 or misappropriation of property or the use of any untrue,
650 deceptive, or misleading representation or the use of any
651 unfair, unlawful, or deceptive trade practice;

652 (c) Is, or ever has been, subject to any litigation,
653 injunction, temporary restraining order, or final judgment or
654 order, including a stipulated judgment or order, an assurance of
655 voluntary compliance, or any similar document or any restrictive
656 court order relating to a business activity as the result of any
657 action brought by a governmental agency, including any action
658 affecting any license to do business or practice an occupation
659 or trade;

660 (d) Has at any time during the previous 7 years filed for
661 bankruptcy, been adjudged bankrupt, or been reorganized because
662 of insolvency; or

663 (e) Has been a principal, director, officer, or trustee of,
664 or a general or limited partner in, or had responsibilities as a
665 manager in, any corporation, partnership, joint venture, or
666 other entity that filed for bankruptcy, was adjudged bankrupt,
667 or was reorganized because of insolvency within 1 year after the

7-01620A-19

20191788__

668 person held that position. The disclosures required in paragraph
669 (d) shall be applicable insofar as they relate to the commercial
670 telephone seller or substance abuse marketing service provider
671 ~~applicant~~, as well as any affiliated commercial seller,
672 ~~affiliate or salesperson,~~ or marketing service provider.

673 (3) Each commercial telephone seller and substance abuse
674 marketing service provider shall disclose to the department the
675 name, address, and account number of each institution where
676 banking or similar monetary transactions are done by the
677 commercial telephone seller or substance abuse marketing service
678 provider.

679 Section 7. Section 501.608, Florida Statutes, is amended to
680 read:

681 501.608 License or claim affidavit of exemption;
682 occupational license.-

683 (1)(a) The department shall issue to each approved
684 applicant a license in such form and size as is prescribed by
685 the department and, in the case of a commercial telephone seller
686 who is not exempt under ~~the provisions of~~ s. 501.604, shall
687 issue a license for each location at which the commercial
688 telephone seller proposes to do business.

689 (b) Except for a person claiming an exemption under s.
690 501.604(1), any commercial telephone seller claiming to be
691 exempt from the act under s. 501.604 ~~s. 501.604(2), (3), (5),~~
692 ~~(6), (9), (10), (11), (12), (17), (21), (22), (24), or (26)~~ must
693 file with the department a claim ~~notarized affidavit~~ of
694 exemption. The claim affidavit of exemption must be on forms
695 prescribed by the department and must require the name of the
696 commercial telephone seller, the name of the business, ~~and~~ the

7-01620A-19

20191788__

697 business address, and all telephone numbers used by the
698 commercial telephone seller or its authorized agents to make
699 outgoing commercial telephone solicitations. At the request of
700 the department, the commercial telephone seller shall provide
701 sales scripts, contracts, and other documentation as needed to
702 verify the validity of the exemption before the claim affidavit
703 of exemption is accepted for filing. A commercial telephone
704 seller maintaining more than one business may file a single
705 claim ~~notarized affidavit~~ of exemption that clearly indicates
706 the location of each place of business. If a change of ownership
707 occurs, the commercial telephone seller must notify the
708 department.

709 (c) The claim affidavit of exemption may be used for the
710 purpose of obtaining an occupational license.

711 (d) Each license issued under this part must show the name
712 and address of the person to whom it is issued, as well as the
713 license number, if any, and date of issuance.

714 (2) Each licensee or person operating under a valid and
715 properly filed exemption shall prominently display his or her
716 license or a copy of his or her receipt of filing of the claim
717 ~~affidavit~~ of exemption at each location where he or she does
718 business and shall make the license or the receipt of filing of
719 the claim affidavit of exemption available for inspection by any
720 governmental agency upon request.

721 (3) Failure to obtain or display a license or a receipt of
722 filing of a claim ~~an affidavit~~ of exemption is sufficient
723 grounds for the department to issue an immediate cease and
724 desist order, which shall act as an immediate final order under
725 s. 120.569(2)(n). The order shall remain in effect until the

7-01620A-19

20191788__

726 commercial telephone seller, the ~~entity providing~~ substance
727 abuse marketing service provider ~~services~~, or a person claiming
728 to be exempt shows the authorities that he or she is properly
729 licensed or exempt. The department may order the business to
730 cease operations and shall order the phones to be shut off.
731 Failure of a commercial telephone seller or substance abuse
732 marketing service provider ~~salesperson~~ to display a license or a
733 receipt of filing of a claim ~~an affidavit~~ of exemption may
734 result in the seller or marketing service provider ~~salesperson~~
735 being summarily ordered by the department to leave the office
736 until he or she can produce a license or a receipt of filing of
737 a claim ~~an affidavit~~ of exemption for the department.

738 (4) Any person applying for or renewing a local
739 occupational license to engage in business as a commercial
740 telephone seller or ~~as an entity providing~~ substance abuse
741 marketing service provider ~~services~~ must exhibit an active
742 license or a copy of the claim ~~affidavit~~ of exemption before the
743 local occupational license may be issued or reissued.

744 (5) A claim ~~An affidavit~~ of exemption has no bearing on a
745 person's burden of proof in any civil or criminal proceeding as
746 provided in s. 501.624.

747 Section 8. Subsection (3) of section 501.609, Florida
748 Statutes, is amended to read:

749 501.609 License renewal.—

750 (3) If any change is made to any script, outline,
751 presentation, sales information, or literature used by a
752 licensee in connection with any solicitation or any services
753 provided by a substance abuse marketing service provider, the
754 new or revised material must be submitted by the licensee to the

7-01620A-19

20191788__

755 department within 10 days after ~~of~~ the change.

756 Section 9. Subsection (1) of section 501.612, Florida
757 Statutes, is amended to read:

758 501.612 Grounds for departmental action against licensure
759 applicants or licensees.—

760 (1) The department may enter an order directing that one or
761 more of the actions set forth in subsection (2) be taken if the
762 department finds that a commercial telephone seller or
763 ~~salesperson or an entity providing~~ substance abuse marketing
764 service provider services, or any person applying for licensure
765 as a commercial telephone seller or ~~salesperson or an entity~~
766 ~~providing~~ substance abuse marketing service provider services,
767 including, but not limited to, owners, operators, officers,
768 directors, partners, or other individuals engaged in the
769 management activities of a business entity:

770 (a) Has, regardless of adjudication, been convicted or
771 found guilty of, or has entered a plea of guilty or a plea of
772 nolo contendere to, racketeering or any offense involving fraud,
773 theft, embezzlement, fraudulent conversion, or misappropriation
774 of property, or any other crime involving moral turpitude;

775 (b) Has, regardless of adjudication, been convicted or
776 found guilty of, or has entered a plea of guilty or a plea of
777 nolo contendere to, any felony;

778 (c) Has had entered against him or her or any business for
779 which he or she has worked or been affiliated, an injunction, a
780 temporary restraining order, or a final judgment or order,
781 including a stipulated judgment or order, an assurance of
782 voluntary compliance, or any similar document, in any civil or
783 administrative action involving racketeering, fraud, theft,

7-01620A-19

20191788__

784 embezzlement, fraudulent conversion, or misappropriation of
785 property or the use of any untrue or misleading representation
786 in an attempt to sell or dispose of real or personal property or
787 the use of any unfair, unlawful, or deceptive trade practice;

788 (d) Is subject to or has worked or been affiliated with any
789 company which is, or ever has been, subject to any injunction,
790 temporary restraining order, or final judgment or order,
791 including a stipulated judgment or order, an assurance of
792 voluntary compliance, or any similar document, or any
793 restrictive court order relating to a business activity as the
794 result of any action brought by a governmental agency, including
795 any action affecting any license to do business or practice an
796 occupation or trade;

797 (e) Has at any time during the previous 7 years filed for
798 bankruptcy, been adjudged bankrupt, or been reorganized because
799 of insolvency;

800 (f) Has been a principal, director, officer, or trustee of,
801 or a general or limited partner in, or had responsibilities as a
802 manager in, any corporation, partnership, joint venture, or
803 other entity that filed the bankruptcy, was adjudged bankrupt,
804 or was reorganized because of insolvency within 1 year after the
805 person held that position;

806 (g) Has been previously convicted of or found to have been
807 acting as a ~~salesperson~~ or commercial telephone seller or an
808 ~~entity providing~~ substance abuse marketing service provider
809 ~~services~~ without a license or whose licensure has previously
810 been refused, revoked, or suspended in any jurisdiction;

811 (h) Falsifies or willfully omits any material information
812 asked for in any application, document, or record required to be

7-01620A-19

20191788__

813 submitted or retained under this part;

814 (i) Makes a material false statement in response to any
815 request or investigation by the department or the state
816 attorney;

817 (j) Refuses or fails, after notice, to produce any document
818 or record or disclose any information required to be produced or
819 disclosed under this part or the rules of the department;

820 (k) Is not of good moral character; or

821 (l) Otherwise violates or is operating in violation of any
822 of ~~the provisions of~~ this part or of the rules adopted or orders
823 issued thereunder.

824 Section 10. Subsections (4) and (5) of section 501.616,
825 Florida Statutes, are amended to read:

826 501.616 Unlawful acts and practices.—

827 (4) A commercial telephone seller or salesperson or
828 substance abuse marketing service provider must be licensed.

829 (5) A salesperson or commercial telephone seller or
830 substance abuse marketing service provider may not otherwise
831 violate this part.

832 Section 11. Section 501.618, Florida Statutes, is amended
833 to read:

834 501.618 General civil remedies.—The department may bring:

835 (1) An action to obtain a declaratory judgment that an act
836 or practice violates ~~the provisions of~~ this part.

837 (2) An action to enjoin a person who has violated, is
838 violating, or is otherwise likely to violate ~~the provisions of~~
839 this part.

840 (3) An action on behalf of one or more purchasers for the
841 actual damages caused by an act or practice performed in

7-01620A-19

20191788__

842 violation of ~~the provisions of~~ this part. Such an action may
843 include, but is not limited to, an action to recover against a
844 bond, letter of credit, or certificate of deposit as otherwise
845 provided in this part.

846

847 Upon motion of the enforcing authority in any action brought
848 under this section, the court may make appropriate orders,
849 including appointment of a general or special magistrate or
850 receiver or sequestration of assets, to reimburse consumers
851 found to have been damaged, to carry out a consumer transaction
852 in accordance with the consumer's reasonable expectations, or to
853 grant other appropriate relief. The court may assess the
854 expenses of a general or special magistrate or receiver against
855 a commercial telephone seller or ~~an entity providing~~ substance
856 abuse marketing service provider ~~services~~. Any injunctive order,
857 whether temporary or permanent, issued by the court shall be
858 effective throughout the state unless otherwise provided in the
859 order.

860 Section 12. Subsections (9) and (10) of section 507.01,
861 Florida Statutes, are amended to read:

862 507.01 Definitions.—As used in this chapter, the term:

863 (9) "Mover" means a person who, for compensation, contracts
864 for or engages in the loading, transportation or shipment, or
865 unloading of household goods as part of a household move. The
866 term includes, but is not limited to, owners, operators,
867 officers, directors, partners, or other individuals engaged in
868 the management activities of a business entity subject to
869 regulation under this chapter. The term does not include a
870 postal, courier, envelope, or package service that does not

7-01620A-19

20191788__

871 advertise itself as a mover or moving service or a person who is
872 hired as a laborer to assist a shipper only in the loading and
873 unloading of the shipper's own household goods.

874 (10) "Moving broker" or "broker" means a person who, for
875 compensation, arranges for another person to load, transport or
876 ship, or unload household goods as part of a household move or
877 who, for compensation, refers a shipper to a mover by telephone,
878 postal or electronic mail, Internet website, or other means. The
879 term includes, but is not limited to, owners, operators,
880 officers, directors, partners, or other individuals engaged in
881 the management activities of a business entity subject to
882 regulation under this chapter.

883 Section 13. Present subsections (10) and (11) of section
884 507.03, Florida Statutes, are redesignated as subsection (11)
885 and (12), respectively, a new subsection (10) is added to that
886 section, and subsection (1), paragraph (a) of subsection (3),
887 subsections (7) and (8), and present subsection (10) are
888 amended, and subsection (13) is added to that section, to read:

889 507.03 Registration.—

890 (1) Each mover and moving broker must register with the
891 department, providing its legal business and trade name, mailing
892 address, and business locations; the full names, addresses, and
893 telephone numbers of its owners or corporate officers and
894 directors and the Florida agent of the corporation; a statement
895 whether it is a domestic or foreign corporation, its state and
896 date of incorporation, its charter number, and, if a foreign
897 corporation, the date it registered with the Department of
898 State; the date on which the mover or broker registered its
899 fictitious name if the mover or broker is operating under a

7-01620A-19

20191788__

900 fictitious or trade name; the name of all other corporations,
901 business entities, and trade names through which each owner of
902 the mover or broker operated, was known, or did business as a
903 mover or ~~moving~~ broker within the preceding 5 years; and proof
904 of the insurance or alternative coverages required under s.
905 507.04. A mover or broker must file a separate registration for
906 each business, trade, or fictitious name under which it is
907 advertising or providing services.

908 (3) (a) Registration fees shall be calculated at the rate of
909 \$300 per year per mover or moving broker. All amounts collected
910 shall be deposited by the Chief Financial Officer to the credit
911 of the General Inspection Trust Fund of the department for the
912 sole purpose of administration of this chapter. A mover may act
913 as a broker without registering as a broker if the mover is
914 advertising and providing services under a single business,
915 trade, or fictitious name.

916 (7) A registration is not valid for any mover or moving
917 broker transacting business at any place other than that
918 designated in the mover's or broker's application, unless the
919 department is first notified in writing before any change of
920 location. A registration issued under this chapter is not
921 assignable, and the mover or broker may not provide services
922 ~~conduct business~~ under more than one name ~~except as registered~~.
923 A mover or broker desiring to change its ~~registered name or~~
924 location or designated agent for service of process at a time
925 other than upon renewal of registration must notify the
926 department of the change.

927 (8) The department may deny, refuse to renew, or revoke the
928 registration of any mover or moving broker based upon a

7-01620A-19

20191788__

929 determination that the mover or ~~moving~~ broker, or any of the
 930 mover's or ~~moving~~ broker's directors, officers, owners, or
 931 general partners:

932 (a) Has failed to meet the requirements for registration as
 933 provided in this chapter;

934 (b) Has been convicted of a crime involving fraud, theft,
 935 larceny, fraudulent conversion, misappropriation of property,
 936 dishonest dealing, or any other act of moral turpitude, or any
 937 crime arising from conduct during a movement of household goods
 938 ~~dishonest dealing, or any other act of moral turpitude;~~

939 (c) Has not satisfied a civil fine or penalty arising out
 940 of any administrative or enforcement action brought by any
 941 governmental agency or private person based upon conduct
 942 involving fraud, dishonest dealing, or any violation of this
 943 chapter;

944 (d) Has pending against him or her any criminal,
 945 administrative, or enforcement proceedings in any jurisdiction,
 946 based upon conduct involving fraud, theft, larceny, fraudulent
 947 conversion, misappropriation of property, dishonest dealing, or
 948 any other act of moral turpitude, or any crime arising from
 949 conduct during a movement of household goods ~~dishonest dealing,~~
 950 ~~or any other act of moral turpitude; or~~

951 (e) Has had a judgment entered against him or her in any
 952 action brought by the department or the Department of Legal
 953 Affairs under this chapter or ss. 501.201-501.213, the Florida
 954 Deceptive and Unfair Trade Practices Act; or

955 (f) Has been a director, officer, owner, or general
 956 partner, or has had responsibilities as a manager, of any
 957 corporation, partnership, joint venture, or other entity that

7-01620A-19

20191788__

958 has had a judgment or final order entered against it in any
959 action brought by the department or the Department of Legal
960 Affairs under this chapter or ss. 501.201-501.213, the Florida
961 Deceptive and Unfair Trade Practices Act, or in any action based
962 upon conduct involving fraud, theft, larceny, fraudulent
963 conversion, misappropriation of property, dishonest dealing, or
964 any other act of moral turpitude, or any crime arising from
965 conduct during a move of household goods.

966 (10) The department shall, upon notification and subsequent
967 written verification by a law enforcement agency, a court, a
968 state attorney, or the Department of Law Enforcement,
969 immediately suspend a registration or the processing of an
970 application for a registration if the registrant, applicant, or
971 director, officer, owner, or general partner of the registrant
972 or applicant is formally charged with a crime involving fraud,
973 theft, larceny, fraudulent conversion, misappropriation of
974 property, dishonest dealing, or any other act of moral
975 turpitude, or any crime arising from conduct during a move of
976 household goods, until final disposition of the case or removal
977 or resignation of the director, officer, owner, or general
978 partner.

979 (11) ~~(10)~~ Each mover and moving broker shall provide
980 evidence to the department of the current and valid insurance or
981 alternative coverages required under s. 507.04 at the time of
982 registration and within 10 days after renewing or making any
983 change to the coverage.

984 (12) ~~(11)~~ At the request of the department, each moving
985 broker shall provide a complete list of the movers that the
986 moving broker has contracted or is affiliated with, advertises

7-01620A-19

20191788__

987 on behalf of, arranges moves for, or refers shippers to,
988 including each mover's complete name, address, telephone number,
989 and e-mail address and the name of each mover's owner or other
990 principal.

991 (13) Each mover and moving broker must maintain true and
992 accurate signed estimates and contracts for moving services for
993 at least 3 years. The records must be made available to the
994 department for inspection and must be furnished no later than 10
995 business days after request by the department.

996 Section 14. Subsection (1) of section 507.04, Florida
997 Statutes, is amended to read:

998 507.04 Required insurance coverages; liability limitations;
999 valuation coverage.—

1000 (1) LIABILITY INSURANCE.—

1001 (a)1. Except as provided in paragraph (b), each mover
1002 operating in this state must maintain current and valid
1003 liability insurance coverage of at least \$10,000 per shipment
1004 for the loss or damage of household goods resulting from the
1005 negligence of the mover or its employees or agents.

1006 2. The mover must provide the department with evidence of
1007 liability insurance coverage before the mover is registered with
1008 the department under s. 507.03. All insurance coverage
1009 maintained by a mover must remain in effect throughout the
1010 mover's registration period. A mover's failure to maintain
1011 insurance coverage in accordance with this paragraph constitutes
1012 an immediate threat to the public health, safety, and welfare.

1013 (b) A mover that operates two or fewer vehicles, in lieu of
1014 maintaining the liability insurance coverage required under
1015 paragraph (a), may, and each moving broker that is not also

7-01620A-19

20191788__

1016 registered as a mover must, maintain one of the following
1017 alternative coverages:

- 1018 1. A performance bond in the amount of \$25,000, for which
1019 the surety of the bond must be a surety company authorized to
1020 conduct business in this state; or
- 1021 2. A certificate of deposit in a Florida banking
1022 institution in the amount of \$25,000.

1023

1024 The original bond or certificate of deposit must be filed with
1025 the department and must designate the department as the sole
1026 beneficiary. The department must use the bond or certificate of
1027 deposit exclusively for the payment of claims to shippers
1028 ~~consumers~~ who are injured by the fraud, misrepresentation,
1029 breach of contract, misfeasance, malfeasance, or financial
1030 failure of the mover or moving broker or by a violation of this
1031 chapter by the mover or broker. Liability for these injuries may
1032 be determined in an administrative proceeding of the department
1033 or through a civil action in a court of competent jurisdiction.
1034 However, claims against the bond or certificate of deposit must
1035 only be paid, in amounts not to exceed the determined liability
1036 for these injuries, by order of the department in an
1037 administrative proceeding. The bond or certificate of deposit is
1038 subject to successive claims, but the aggregate amount of these
1039 claims may not exceed the amount of the bond or certificate of
1040 deposit. Claims must be submitted in writing on an affidavit
1041 form adopted by department rule and must be received by the
1042 department within 120 days after an alleged injury has occurred
1043 or is discovered to have occurred or a judgment has been
1044 entered. The proceedings shall be conducted pursuant to chapter

7-01620A-19

20191788__

1045 120. For proceedings conducted pursuant to ss. 120.569 and
1046 120.57, the agency shall act only as a nominal party.

1047 Section 15. Subsections (1) and (3) of section 507.06,
1048 Florida Statutes, are amended to read:

1049 507.06 Delivery and storage of household goods.—

1050 (1) A mover must relinquish household goods to a shipper
1051 and must place the goods inside a shipper's dwelling or, if
1052 directed by the shipper, inside a storehouse or warehouse that
1053 is owned or rented by the shipper or the shipper's agent, unless
1054 the shipper has not tendered payment in the amount specified in
1055 a written contract or estimate signed and dated by the shipper
1056 that complies with the requirements of this chapter. A mover may
1057 not refuse to relinquish prescription medicines and goods for
1058 use by children, including children's furniture, clothing, or
1059 toys, under any circumstances.

1060 (3) A mover that lawfully fails to relinquish a shipper's
1061 household goods may place the goods in storage until payment is
1062 tendered; however, the mover must notify the shipper of the
1063 location where the goods are stored and the amount due within 2
1064 5 days after receipt of a written request for that information
1065 from the shipper, which request must include the address where
1066 the shipper may receive the notice. A mover may not require a
1067 prospective shipper to waive any rights or requirements under
1068 this section.

1069 Section 16. Subsections (10) through (13) are added to
1070 section 507.07, Florida Statutes, to read:

1071 507.07 Violations.—It is a violation of this chapter:

1072 (10) To place a shipper's goods in a self-service storage
1073 unit or self-contained storage unit owned by anyone other than

7-01620A-19

20191788__

1074 the mover unless those goods are stored in the name of the
1075 shipper and the shipper contracts directly with the owner of the
1076 self-service storage unit or self-contained storage unit.

1077 (11) To operate in violation of or fail to comply with any
1078 requirement of this chapter.

1079 (12) To increase the cost of the move above the cost listed
1080 on the written estimate unless the shipper has requested that
1081 the mover perform additional services not listed on the original
1082 estimate. The mover may not increase the cost of the move if the
1083 mover failed to perform an onsite inspection before signing the
1084 estimate.

1085 (13) To require a cash payment.

1086 Section 17. Subsection (1) of section 507.11, Florida
1087 Statutes, is amended to read:

1088 507.11 Criminal penalties.—

1089 (1) The refusal of a mover or a mover's employee, agent, or
1090 contractor to comply with an order from a law enforcement
1091 officer to relinquish a shipper's household goods after the
1092 officer determines that the shipper has tendered payment of the
1093 amount of a written estimate or contract, or after the officer
1094 determines that the mover did not produce a signed estimate or
1095 contract that complies with the requirements of this chapter
1096 upon which demand is being made for payment or failed to comply
1097 with s. 507.06 or s. 507.07(12) or (13), is a felony of the
1098 third degree, punishable as provided in s. 775.082, s. 775.083,
1099 or s. 775.084. A mover's compliance with an order from a law
1100 enforcement officer to relinquish goods to a shipper is not a
1101 waiver or finding of fact regarding any right to seek further
1102 payment from the shipper.

7-01620A-19

20191788__

1103 Section 18. Section 507.15, Florida Statutes, is created to
1104 read:

1105 507.15 Shippers' bill of rights.-

1106 (1) The department shall prepare a publication that
1107 includes a summary of the rights and remedies available to
1108 shippers and the responsibilities of movers under this chapter.
1109 The publication must include a notice stating:

1110 (a)1. That a mover's failure to relinquish household goods
1111 as required by this chapter or failure to comply with s. 507.06
1112 or s. 507.07(12) or (13) constitutes a felony of the third
1113 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1114 775.084.

1115 2. That any other violation of this chapter constitutes a
1116 misdemeanor of the first degree, punishable as provided in s.
1117 775.082 or s. 775.083.

1118 3. That any violation of this chapter constitutes a
1119 violation of the Florida Deceptive and Unfair Trade Practices
1120 Act.

1121 (b) The potential risks of shipping sentimental items or
1122 family heirlooms.

1123 (c) The requirement that a mover must provide valuation
1124 coverage.

1125 (d) The methods of contacting the department for more
1126 information or to file a complaint.

1127
1128 The department shall make its publication available to the
1129 public on its website.

1130 (2) A mover may customize the color, design, and dimensions
1131 of the front and back covers of the standard department

7-01620A-19

20191788__

1132 publication. If the mover customizes the publication, the
1133 customized publication must include the content specified in
1134 subsection (1) and the font size used must be at least 10
1135 points, with the exception that the following must appear
1136 prominently on the front cover in at least 12-point boldfaced
1137 type:

1138 Your Rights and Responsibilities When You Move.
1139 Furnished by Your Mover, as Required by Florida Law.

1140 (3) Before executing a contract for a household move, a
1141 mover must provide an electronic or hard copy of the
1142 department's publication to a prospective shipper and obtain the
1143 shipper's acknowledged receipt of such publication by written or
1144 electronic signature in the contract.

1145 Section 19. Paragraph (a) of subsection (5) of section
1146 527.0201, Florida Statutes, is amended to read:

1147 527.0201 Qualifiers; master qualifiers; examinations.—

1148 (5) In addition to all other licensing requirements, each
1149 category I and category V licensee must, at the time of
1150 application for licensure, identify to the department one master
1151 qualifier who is a full-time employee at the licensed location.
1152 This person shall be a manager, owner, or otherwise primarily
1153 responsible for overseeing the operations of the licensed
1154 location and must provide documentation to the department as
1155 provided by rule. The master qualifier requirement shall be in
1156 addition to the requirements of subsection (1).

1157 (a) In order to apply for certification as a master
1158 qualifier, each applicant must have at least ~~been a registered~~
1159 ~~qualifier for a minimum of 3 years~~ of verifiable LP gas
1160 experience as a registered qualifier or hold a professional

7-01620A-19

20191788__

1161 certification by an LP gas equipment manufacturer as adopted by
1162 department rule immediately preceding submission of the
1163 ~~application~~, must be employed by a licensed category I or
1164 category V licensee, or an applicant for such license, and must
1165 pass a master qualifier competency examination. Master qualifier
1166 examinations shall be based on Florida's laws, rules, and
1167 adopted codes governing liquefied petroleum gas safety, general
1168 industry safety standards, and administrative procedures. The
1169 applicant must successfully pass the examination with a grade of
1170 70 percent or above. Each applicant for master qualifier
1171 registration must submit to the department a nonrefundable \$30
1172 examination fee before the examination.

1173 Section 20. Section 616.242, Florida Statutes, is amended
1174 to read:

1175 616.242 Safety standards for amusement rides.—

1176 (1) OWNER RESPONSIBILITY.—The owner of an amusement ride,
1177 and each amusement ride, must meet at all times the requirements
1178 of this section and any rules adopted hereunder ~~thereunder~~.

1179 (2) SCOPE.—This section applies to all amusement rides
1180 within this state unless exempt under subsection (11) ~~(10)~~.

1181 (3) DEFINITIONS.—As used in this section, the term:

1182 (a) "Amusement ride" means any building, structure, or
1183 mechanical device or combination thereof through which a patron
1184 moves, walks, or is carried or conveyed on, along, around, over,
1185 or through a fixed or restricted course or within a defined area
1186 for the purpose of giving its patrons amusement, pleasure,
1187 thrills, or excitement.

1188 (b) "Amusement ride event" means an amusement ride or rides
1189 operated by an owner at a specific location and date as listed

7-01620A-19

20191788__

1190 on an annual permit application or a temporary amusement ride
1191 permit application.

1192 (c)~~(b)~~ "Annual permit" means the United States Amusement
1193 Identification Number and the numbered and dated decal issued by
1194 the department, which signify that the permanent amusement ride
1195 has been permitted by the department.

1196 (d)~~(e)~~ "Bungy operation" means an amusement ride which uses
1197 ~~utilizes~~ as a component a bungy cord which is an elastic rope
1198 made of rubber, latex, or other elastic type materials whether
1199 natural or synthetic.

1200 ~~(e) "Inspection certificate" means the document issued by~~
1201 ~~the department, which indicates that the amusement ride has~~
1202 ~~undergone a recurring inspection by the department as required~~
1203 ~~by this section.~~

1204 (e)~~(d)~~ "Go-kart" means an amusement ride vehicle controlled
1205 or driven by patrons specifically designed for and run on a
1206 fixed course.

1207 (f) "Kiddie ride" means an amusement ride designed
1208 primarily for use by patrons up to 12 years of age.

1209 (g) "Kiddie train" means a train designed as a kiddie ride
1210 which is operated on a flat surface or flat track, carries no
1211 more than 14 patrons, and does not exceed a speed of 3 miles per
1212 hour.

1213 (h) "Major modification" means any change in ~~either~~ the
1214 structural or operational characteristics of an ~~the~~ amusement
1215 ride which will alter its performance from that specified in the
1216 manufacturer's design criteria.

1217 (i) "Manager" means a person having possession, custody, or
1218 managerial control of an amusement ride, whether as owner,

7-01620A-19

20191788__

1219 lessee, agent, operator, attendant, or otherwise.

1220 (j) "Nondestructive testing" is the development and
1221 application of technical methods, including, but not limited to,
1222 radiographic, magnetic particle, ultrasonic, liquid penetrant,
1223 electromagnetic, neutron radiographic, acoustic emission,
1224 visual, and leak testing to examine materials or components in
1225 ways that do not impair their future usefulness and
1226 serviceability in order to detect, locate, measure, and evaluate
1227 discontinuities, defects, and other imperfections; to assess
1228 integrity, properties, and composition; and to measure
1229 geometrical characters.

1230 (k) "Owner" means the person exercising ultimate dominion
1231 and control over an amusement ride.

1232 (l) "Patron" means any person who is in the immediate
1233 vicinity of an amusement ride, getting on or off, or entering or
1234 exiting an amusement ride, or using an amusement ride. The term
1235 does not include employees, agents, or servants of the owner
1236 while they are engaged in the duties of their employment.

1237 (m) "Permanent amusement ride" means an amusement ride that
1238 is not regularly relocated.

1239 (n) "Permanent facility" means a location or place from
1240 which amusement rides are not regularly relocated and at which
1241 such rides operate as a lasting part of the premises.

1242 (o) "Private event" means an event that is not open to the
1243 general public and for which ~~where no~~ admission is not charged.

1244 (p) "Professional engineer" means a person who holds a
1245 valid license as a professional engineer issued by the
1246 Department of Business and Professional Regulation or by an
1247 equivalent licensing body in another state.

7-01620A-19

20191788__

1248 (q) "Qualified inspector" means an employee or agent of an
1249 insurance underwriter of an amusement ride who documents to the
1250 department in a manner established by rule of the department the
1251 following qualifications:

1252 1. A minimum of 5 years' ~~years~~ experience in the amusement
1253 ride field, at least 2 years of which were involved in actual
1254 amusement ride inspection with a manufacturer, government
1255 agency, park, carnival, or insurance underwriter;

1256 2. The completion of 32 hours per year of continuing
1257 education at a school approved by rule of the department, which
1258 includes inservice industry or manufacturer updates and
1259 seminars; and

1260 3. At least 80 hours of formal education during the past 5
1261 years from a school approved by rule of the department for
1262 amusement ride safety. Nondestructive-testing training, as
1263 determined by rule of the department, may be substituted for up
1264 to one-half of the 80 hours of education.

1265 (r) "Simulator" means any amusement ride that is a self-
1266 contained unit requiring little or no assembly and that uses a
1267 motion picture simulation, along with a mechanical movement, to
1268 simulate activities that provide amusement or excitement for the
1269 patron.

1270 (s) "Temporary amusement ride" means an amusement ride that
1271 is regularly relocated, with or without disassembly.

1272 (t) "Temporary amusement ride permit" means the United
1273 States Amusement Identification Number and the decal issued by
1274 the department, which signify that the temporary amusement ride
1275 has been permitted by the department.

1276 (u) ~~(t)~~ "Water park" means a permanent facility with one or

7-01620A-19

20191788__

1277 more amusement rides that totally or partially immerse a patron
1278 in water.

1279 (4) ADOPTION OF STANDARDS; RULES.—

1280 (a) The department shall adopt by rule standards for
1281 amusement rides which are the same as or similar to the
1282 following national standards:

1283 1. ASTM International ~~American Society for Testing and~~
1284 ~~Materials~~ Committee F-24 Standards on Amusement Rides and
1285 Devices.

1286 2. National Electric Code Handbook, ~~Article 525.~~

1287 3. National Fire Protection Association standards ~~Code 101~~
1288 ~~(chapters 8-4.6 and 9-4.6).~~

1289 4. ~~ASTM Standards: E543 Practice for Determining the~~
1290 ~~Qualification of Nondestructive Testing Agencies.~~

1291 5. ~~ASNT Document Recommended Practice SNT-TC-1A Personnel~~
1292 ~~Qualification and Certification in Nondestructive Testing.~~

1293 (b) The department may adopt rules necessary to effectuate
1294 the statutory duties of the department in the interest of public
1295 health, safety, and welfare and to promote patron safety in the
1296 design, construction, assembly, disassembly, maintenance, and
1297 operation of amusement rides in this state.

1298 (c) The Legislature finds that go-karts, amusement rides at
1299 water parks, and bungy operations are amusement rides that,
1300 because of their unique nature, pose safety risks to patrons
1301 distinct from other amusement rides. Therefore, the department
1302 shall adopt rules regulating their safe use and operation and
1303 establish safety standards and inspection requirements in
1304 addition to those required by this section or other rule of the
1305 department.

7-01620A-19

20191788__

1306 (d) The Legislature finds that, as a result of accidents or
1307 other unforeseen events, circumstances may arise requiring
1308 additional safety standards for the protection of patrons of
1309 amusement rides, ~~and~~ Therefore the department may adopt rules
1310 to address the circumstances that may arise following an
1311 accident or unforeseen event.

1312 (5) PERMANENT AMUSEMENT RIDE ANNUAL PERMIT.—

1313 (a) A permanent ~~An~~ amusement ride may not be operated
1314 without a current annual permit.

1315 (b) To apply for an annual permit, an owner must submit to
1316 the department a written application on a form prescribed by
1317 rule of the department, which must include the following:

1318 1. The legal name, address, and primary place of business
1319 of the owner.

1320 2. A description, manufacturer's name, serial number, model
1321 number and, if previously assigned, the United States Amusement
1322 Identification Number of the amusement ride.

1323 3. A valid certificate of insurance for each amusement
1324 ride.

1325 4. If required under subsection (7), an annual affidavit of
1326 compliance and nondestructive testing certifying that the
1327 amusement ride was inspected in person by the affiant and that
1328 the amusement ride is in general conformance with the
1329 requirements of this section and all applicable rules adopted by
1330 the department. The affidavit must be executed by a professional
1331 engineer or a qualified inspector ~~no earlier than 60 days~~
1332 ~~before, but not later than, the date of the filing of the~~
1333 ~~application with the department. The owner shall request~~
1334 ~~inspection and permitting of the amusement ride within 60 days~~

7-01620A-19

20191788__

1335 ~~of the date of filing the application with the department. The~~
1336 ~~department shall inspect and permit the amusement ride within 60~~
1337 ~~days after filing the application with the department.~~

1338 ~~5. If required by subsection (6), an affidavit of~~
1339 ~~nondestructive testing dated and executed no earlier than 60~~
1340 ~~days before, but not later than, the date of the filing of the~~
1341 ~~application with the department. The owner shall request~~
1342 ~~inspection and permitting of the amusement ride within 60 days~~
1343 ~~of the date of filing the application with the department. The~~
1344 ~~department shall inspect and permit the amusement ride within 60~~
1345 ~~days after filing the application with the department.~~

1346 ~~6. A request for inspection.~~

1347 ~~5.7. Upon request,~~ The owner shall, at no cost to the
1348 department, provide the department an electronic a copy of the
1349 manufacturer's current recommended operating instructions ~~in the~~
1350 ~~possession of the owner,~~ the owner's operating fact sheet, and
1351 any written bulletins ~~in the possession of the owner~~ concerning
1352 the safety, operation, or maintenance of the amusement ride.

1353 (c) An annual permit application must be received by the
1354 department at least 15 days before the owner's planned opening
1355 date. If an application is received less than 15 days before the
1356 owner's planned opening date or less than 15 days before the
1357 expiration of the previous permit, the department may inspect
1358 the amusement ride and charge a late fee as set by rule of the
1359 department.

1360 (d) ~~(e)~~ An annual permit must be issued by the department to
1361 the owner of an amusement ride when a completed application has
1362 been received, the amusement ride has passed the department's
1363 inspection, and all applicable fees, as set by rule of the

7-01620A-19

20191788__

1364 department, have been paid.

1365 (e)~~(d)~~ The annual permit is valid for 1 year after ~~from~~ the
1366 date of issue and is not transferable.

1367 (f)~~(e)~~ The annual permit must be displayed in an accessible
1368 location on the amusement ride ~~in a place visible to patrons of~~
1369 ~~the amusement ride.~~

1370 (g)~~(f)~~ Each go-kart track at the same permanent facility is
1371 considered a separate amusement ride.

1372 (h)~~(g)~~ Amusement rides at water parks which operate from
1373 the same deck or level are considered one amusement ride.

1374 (6) TEMPORARY AMUSEMENT RIDE PERMIT.-

1375 (a) A temporary amusement ride may not be operated without
1376 a current permit.

1377 (b) To apply for a permit, an owner must submit to the
1378 department a written application on a form prescribed by rule of
1379 the department, which must include the following:

1380 1. The legal name, address, and primary place of business
1381 of the owner.

1382 2. A description, manufacturer's name, serial number, model
1383 number and, if previously assigned, the United States Amusement
1384 Identification Number of the amusement ride.

1385 3. A valid certificate of insurance for each amusement
1386 ride.

1387 4. If required under subsection (7), an affidavit of
1388 compliance and nondestructive testing certifying that the
1389 amusement ride was inspected in person by the affiant and that
1390 the amusement ride is in general conformance with the
1391 requirements of this section and all applicable rules adopted by
1392 the department. The affidavit must be executed by a professional

7-01620A-19

20191788__

1393 engineer or a qualified inspector.

1394 5. The owner shall, at no cost to the department, provide
1395 the department an electronic copy of the manufacturer's current
1396 recommended operating instructions, the owner's operating fact
1397 sheet, and any written bulletins concerning the safety,
1398 operation, or maintenance of the amusement ride.

1399 (c) A temporary amusement ride permit application must be
1400 received by the department each time the amusement ride is
1401 relocated with or without assembly at least 14 days before the
1402 date of the ride's first intended use at the new location. If
1403 the permit application is received less than 14 days before the
1404 date of the ride's first intended use at the new location, the
1405 department may inspect the amusement ride and charge a late fee,
1406 as set by rule of the department.

1407 (d) A permit must be issued by the department to the owner
1408 of an amusement ride when a completed application has been
1409 received, the amusement ride has passed the department's
1410 inspection, and all applicable fees, as set by rule of the
1411 department, have been paid.

1412 (e) The permit is valid for 6 months after the date of
1413 issue or until the ride is relocated with or without disassembly
1414 and is not transferable.

1415 (f) The permit must be displayed in an accessible location
1416 on the amusement ride.

1417 (7) ~~(6)~~ NONDESTRUCTIVE TESTING; ANNUAL AFFIDAVIT;
1418 EXEMPTIONS.—

1419 (a) Except as provided in paragraph (d), an owner may not
1420 operate an amusement ride unless the owner has at all times a
1421 current affidavit of nondestructive testing from a professional

7-01620A-19

20191788__

1422 engineer or qualified inspector that the amusement ride has
1423 undergone nondestructive testing for metal fatigue at least
1424 annually. The nondestructive testing for metal fatigue must be
1425 conducted more often than annually, ~~if required by any rule~~
1426 adopted under this section, by the manufacturer of the amusement
1427 ride, or by the professional engineer or qualified inspector
1428 executing the affidavit of nondestructive testing. The
1429 nondestructive testing for metal fatigue must consist at least
1430 of visual nondestructive testing as well as ~~in addition,~~
1431 nonvisual nondestructive testing for metal fatigue which must be
1432 conducted on the components of the amusement ride as required by
1433 any rule adopted under this section, by the manufacturer of the
1434 amusement ride, or by the professional engineer or qualified
1435 inspector executing the affidavit of nondestructive testing.

1436 (b) Nondestructive testings must be performed by a
1437 technician who meets the requirements prescribed by rule of the
1438 department ~~of subparagraphs (4) (a) 4. and 5.~~

1439 (c) An affidavit of nondestructive testing must state:

1440 1. That the amusement ride was inspected in person by the
1441 affiant.

1442 2. That all nondestructive testing requirements are
1443 current.

1444 3. That the nondestructive testing was performed by a
1445 qualified nondestructive testing technician.

1446 4. The components of the amusement ride for which the
1447 manufacturer has recommended or required nondestructive testing.

1448 5. The type of nondestructive testing required or
1449 recommended by the manufacturer.

1450 6. The frequency of the nondestructive testing required or

7-01620A-19

20191788__

1451 recommended by the manufacturer.

1452 7. The components of the amusement ride for which the
1453 affiant has recommended or required nondestructive testing.

1454 8. The type of nondestructive testing required or
1455 recommended by the affiant.

1456 9. The frequency of the nondestructive testing as required
1457 or recommended by the affiant.

1458 10. That visual nondestructive testing is adequate for the
1459 amusement ride to be in general conformance with the
1460 requirements of this section, and all applicable rules only, if
1461 ~~only~~ visual nondestructive testing is required or recommended by
1462 ~~either~~ the manufacturer or the affiant.

1463 (d) Nondestructive testing is not required for fun houses,
1464 houses of mirrors, haunted houses, mazes, wave pools, wave-
1465 making devices, kiddie pools, slides that are fully supported by
1466 an earthen mound, nonmotorized playground equipment that
1467 requires a manager, or lazy-river-type nonmotorized floating
1468 carriers propelled by water.

1469 (8) ~~(7)~~ DEPARTMENT INSPECTIONS.-

1470 (a) In order to obtain an annual or a temporary amusement
1471 ride permit, an amusement ride must be inspected by the
1472 department ~~in accordance with subsection (11) and receive an~~
1473 ~~inspection certificate. In addition, each permanent amusement~~
1474 ~~ride must be inspected semiannually by the department in~~
1475 ~~accordance with subsection (11) and receive an inspection~~
1476 ~~certificate, and each temporary amusement ride must be inspected~~
1477 ~~by the department in accordance with subsection (11), and must~~
1478 ~~receive an inspection certificate each time the ride is set up~~
1479 ~~or moved to a new location in this state unless the temporary~~

7-01620A-19

20191788__

- 1480 amusement ride ~~is~~:
- 1481 1. Is used at a private event;
- 1482 2. Is a simulator, the capacity of which does not exceed 16
- 1483 persons; ~~or~~
- 1484 3. Is a kiddie ride used at a public event, provided that
- 1485 ~~not there are no~~ more than three amusement rides are at the
- 1486 event, ~~none of~~ the kiddie rides at the event do not exceed
- 1487 ~~exceeds~~ a capacity of 12 persons, and the kiddie ride was
- 1488 inspected by the department ~~has an inspection certificate that~~
- 1489 ~~was issued~~ within the preceding 6 months. The capacity of a
- 1490 kiddie ride shall be determined by rule of the department,
- 1491 unless the capacity of the ride has been determined and
- 1492 specified by the manufacturer. Any owner of a kiddie ride
- 1493 operating under this exemption is responsible for ensuring that
- 1494 ~~not no~~ more than three amusement rides are operated at the
- 1495 event; or
- 1496 4. Was inspected and certified by an accredited trade
- 1497 organization as defined by department rule.
- 1498 ~~(b) To obtain a department inspection for an amusement~~
- 1499 ~~ride, the owner must submit to the department on a form~~
- 1500 ~~prescribed by rule of the department a written Request for~~
- 1501 ~~Inspection. The owner must provide the following information to~~
- 1502 ~~the department:~~
- 1503 1. ~~The legal name, address, and primary place of business~~
- 1504 ~~of the owner.~~
- 1505 2. ~~A description, manufacturer's name, serial number, model~~
- 1506 ~~number, and the United States Amusement Identification Number,~~
- 1507 ~~if previously assigned, of the amusement ride.~~
- 1508 3. ~~For a temporary amusement ride, for each time the~~

7-01620A-19

20191788__

1509 ~~amusement ride is set up or moved to a new location, the date of~~
1510 ~~first intended use at the new location and the address or a~~
1511 ~~description of the new location.~~

1512 ~~(c) For permanent amusement rides, the request for~~
1513 ~~inspection must be received by the department at least 15 days~~
1514 ~~before the owner's planned opening date or at least 15 days~~
1515 ~~before the expiration of the prior inspection certificate. If~~
1516 ~~the request for inspection is received less than 15 days before~~
1517 ~~the owner's planned opening date or less than 15 days before the~~
1518 ~~expiration of the prior inspection certificate, the department~~
1519 ~~may nevertheless inspect the amusement ride and charge a late~~
1520 ~~fee, as set by rule of the department.~~

1521 ~~(d) For temporary amusement rides, the request for~~
1522 ~~inspection must be received by the department for each time the~~
1523 ~~amusement ride is set up or moved to a new location at least 14~~
1524 ~~days before the date of first intended use at the new location.~~
1525 ~~If the request for inspection is received less than 14 days~~
1526 ~~before the date of first intended use at the new location, the~~
1527 ~~department may nevertheless inspect the amusement ride and~~
1528 ~~charge a late fee, as set by rule of the department.~~

1529 ~~(b)~~(e) Inspections will be assigned on a first come, first
1530 served basis, and overflow requests will be scheduled on the
1531 closest date to the date for which the inspection was requested.

1532 ~~(c)~~(f) Upon failure of an amusement ride to pass any
1533 department inspection, the owner may request reinspection which
1534 shall be submitted in writing to the department on a form
1535 prescribed by rule of the department. The department shall
1536 reinspect the amusement ride as soon as practical after
1537 ~~following~~ receipt of the written request for reinspection and

7-01620A-19

20191788__

1538 any applicable reinspection fees set by rule of the department.
1539 Inspections will be assigned on a first come, first served
1540 basis, and the overflow requests will be scheduled on the
1541 closest date to the date for which the inspection was requested.

1542 ~~(g) If the amusement ride passes inspection and the owner~~
1543 ~~pays the applicable fee set by rule of the department, the~~
1544 ~~department shall issue an inspection certificate on a form~~
1545 ~~prescribed by rule of the department.~~

1546 ~~(h) The inspection certificate must contain the date of~~
1547 ~~inspection, the site of the inspection, and the name of the~~
1548 ~~inspector.~~

1549 ~~(i) The inspection certificate is valid only for the site~~
1550 ~~stated on the inspection certificate. The inspection certificate~~
1551 ~~is valid for a period of not more than 6 months from the date of~~
1552 ~~issuance, and is not transferable.~~

1553 ~~(j) The inspection certificate must be displayed on the~~
1554 ~~amusement ride at a place readily visible to patrons of the~~
1555 ~~amusement ride.~~

1556 (d) ~~(k)~~ If the owner fails to timely cancel a scheduled
1557 Request for inspection, requests holiday or weekend inspections,
1558 or is required to have a replacement USAID plate issued by the
1559 department, the owner may be charged an appropriate fee to be
1560 set by rule of the department.

1561 (9) ~~(8)~~ FEES.—

1562 (a) The department shall by rule establish fees to cover
1563 the costs and expenditures associated with the fair rides
1564 inspection program, including all direct and indirect costs. If
1565 there is not sufficient general revenue appropriated by the
1566 Legislature, the industry shall pay for the remaining cost of

7-01620A-19

20191788__

1567 the program. The fees must be deposited in the General
1568 Inspection Trust Fund.

1569 (b) Any owner of an amusement ride who has not paid all the
1570 fees required under this section or who has any unpaid fine
1571 outstanding under this section may not operate any amusement
1572 ride in this state until the fees and fines have been paid to
1573 the department.

1574 (10)~~(9)~~ INSURANCE REQUIREMENTS.—

1575 (a) An owner may not operate an amusement ride unless the
1576 owner has in effect at all times of operation an insurance
1577 policy in an amount of at least \$1 million per occurrence, \$1
1578 million in the aggregate, which insures the owner of the
1579 amusement ride against liability for injury to persons arising
1580 out of the use of the amusement ride.

1581 (b) The policy must be procured from an insurer that is
1582 licensed to transact business in this state or that is approved
1583 as a surplus lines insurer.

1584 (c) ~~The insurance requirements imposed under~~ This
1585 subsection does ~~do~~ not apply to a governmental entity that is
1586 covered under ~~by the provisions of~~ s. 768.28(16).

1587 (11)~~(10)~~ EXEMPTIONS.—

1588 (a) This section does not apply to:

1589 1. Permanent facilities that employ at least 1,000 full-
1590 time employees and that maintain full-time, in-house safety
1591 inspectors. ~~Furthermore,~~ The permanent facilities must file an
1592 affidavit of the annual inspection with the department, on a
1593 form prescribed by rule of the department. ~~Additionally,~~ The
1594 Department of Agriculture and Consumer Services may consult
1595 annually with the permanent facilities regarding industry safety

7-01620A-19

20191788__

1596 programs.

1597 2. Any playground operated by a school, local government,
1598 or business licensed under chapter 509~~7~~, if the playground is an
1599 incidental amenity and the operating entity is not primarily
1600 engaged in providing amusement, pleasure, thrills, or
1601 excitement.

1602 ~~3. Museums or other institutions principally devoted to the~~
1603 ~~exhibition of products of agriculture, industry, education,~~
1604 ~~science, religion, or the arts.~~

1605 3.4. Conventions or trade shows for the sale or exhibit of
1606 amusement rides if there are a minimum of 15 amusement rides on
1607 display or exhibition~~7~~, and if any operation of such amusement
1608 rides is limited to the registered attendees of the convention
1609 or trade show.

1610 ~~4.5.~~ Skating rinks, arcades, laser or paint ball war games,
1611 bowling alleys, miniature golf courses, mechanical bulls,
1612 inflatable rides, trampolines, ball crawls, exercise equipment,
1613 jet skis, paddle boats, airboats, helicopters, airplanes,
1614 parasails, hot air or helium balloons whether tethered or
1615 untethered, theatres, batting cages, stationary spring-mounted
1616 fixtures, rider-propelled merry-go-rounds, games, side shows,
1617 live animal rides, or live animal shows.

1618 ~~5.6.~~ Go-karts operated in competitive sporting events if
1619 participation is not open to the public.

1620 ~~6.7.~~ Nonmotorized playground equipment that is not required
1621 to have a manager.

1622 ~~7.8.~~ Coin-actuated amusement rides designed to be operated
1623 by depositing coins, tokens, credit cards, debit cards, bills,
1624 or other cash money and which are not required to have a

7-01620A-19

20191788__

1625 manager, and which have a capacity of six persons or less.

1626 ~~8.9.~~ Facilities described in s. 549.09(1) (a) when such
1627 facilities are operating cars, trucks, or motorcycles only.

1628 ~~9.10.~~ Battery-powered cars or other vehicles that are
1629 designed to be operated by children 7 years of age or under and
1630 that cannot exceed a speed of 4 miles per hour.

1631 ~~10.11.~~ Mechanically driven vehicles that pull train cars,
1632 carts, wagons, or other similar vehicles, that are not confined
1633 to a metal track or confined to an area but are steered by an
1634 operator and cannot ~~do not~~ exceed a speed of 4 miles per hour.

1635 ~~11.12.~~ A water-related amusement ride operated by a
1636 business licensed under chapter 509 if the water-related
1637 amusement ride is an incidental amenity and the operating
1638 business is not primarily engaged in providing amusement,
1639 pleasure, thrills, or excitement and does not offer day rates.

1640 ~~12.13.~~ An amusement ride at a private, membership-only
1641 facility if the amusement ride is an incidental amenity and the
1642 facility is not open to the general public; is not primarily
1643 engaged in providing amusement, pleasure, thrills, or
1644 excitement; and does not offer day rates.

1645 ~~13.14.~~ A nonprofit permanent facility registered under
1646 chapter 496 which is not open to the general public.

1647 (b) The department may, by rule, establish exemptions from
1648 this section ~~for nonmotorized or human-powered amusement rides~~
1649 ~~or coin-actuated amusement rides.~~

1650 ~~(12)-(11)~~ INSPECTION STANDARDS.—An amusement ride must
1651 conform to ~~and must be inspected by the department in accordance~~
1652 ~~with~~ the following standards:

1653 (a) All mechanical, structural, and electrical components

7-01620A-19

20191788__

1654 that affect patron safety must be in good working order.

1655 (b) All control devices, speed-limiting devices, brakes,
1656 and safety equipment designated by the manufacturer must be in
1657 good working order.

1658 (c) Parts must be properly aligned, and they may not be
1659 bent, distorted, cut, or otherwise injured to force a fit. Parts
1660 requiring lubrication must be lubricated in the course of
1661 assembly. Fastening and locking devices must be installed when
1662 ~~where~~ required for safe operation.

1663 (d) ~~Before being used by the public,~~ An amusement ride must
1664 be placed or secured with blocking, cribbing, outriggers, guys,
1665 or other means so as to be stable under all operating
1666 conditions.

1667 (e) Areas in which patrons may be endangered by the
1668 operation of an amusement ride must be fenced, barricaded, or
1669 otherwise effectively guarded against inadvertent contact.

1670 (f) Machinery used in or with an amusement ride must be
1671 enclosed, barricaded, or otherwise effectively guarded against
1672 inadvertent contact.

1673 (g) An amusement ride powered so as to be capable of
1674 exceeding its maximum safe operating speed must be provided with
1675 a maximum-speed-limiting device.

1676 (h) The interior and exterior parts of all patron-carrying
1677 amusement rides with which a patron may come in contact must be
1678 smooth and rounded and free from sharp, rough, or splintered
1679 edges and corners, without ~~with no~~ projecting studs, bolts,
1680 screws, or other projections which might cause injury.

1681 (i) Signs that advise or warn patrons of age restrictions,
1682 size restrictions, health restrictions, weight limitations, or

7-01620A-19

20191788__

1683 any other special consideration or use restrictions required or
1684 recommended for the amusement ride by the manufacturer shall be
1685 prominently displayed at the patron entrance of each amusement
1686 ride.

1687 (j) All amusement rides presented for inspection as ready
1688 for operation or in operation must comply with this section and
1689 the rules adopted hereunder.

1690 (k) Signs containing the toll-free number of the department
1691 and informing patrons that they may contact the department with
1692 complaints or concerns regarding the operation of amusement
1693 rides must be posted in a manner conspicuous to the public at
1694 each entrance of a permanent amusement ride facility and
1695 temporary amusement ride event, unless such facility or event is
1696 exempt under subsection (11). Specifications for such signs
1697 shall be prescribed by rule of the department.

1698 (13) REGISTERED SAFETY TECHNICIAN.-

1699 (a) In addition to the requirements of subsections (5) and
1700 (6), an owner applying for a permit to operate an amusement ride
1701 must employ a registered safety technician.

1702 (b) An owner must employ one registered safety technician
1703 for each amusement ride event.

1704 (c) A registered safety technician must certify that
1705 amusement rides meet the requirements of subsection (12) and are
1706 ready for operation before inspection.

1707 (d) A registered safety technician must be present during
1708 inspection by the department and the hours of operation at each
1709 amusement ride event.

1710 (e) A registered safety technician must demonstrate
1711 competency by:

7-01620A-19

20191788__

1712 1. Holding a valid National Association of Amusement Ride
1713 Safety Officials (NAARSO) Level II or Level III certification,
1714 or a valid Amusement Industry Manufacturers and Suppliers (AIMS)
1715 International certification, or certification from another
1716 professional organization that meets or exceeds the
1717 certification requirements set forth in this subparagraph.

1718 2. Passing a written examination administered by the
1719 department or its agent with a grade of at least 70 percent. The
1720 department shall by rule specify the general areas of competency
1721 to be covered by each examination.

1722 (f) Registration shall expire 2 years after the date of
1723 issuance.

1724 (g) The department shall establish by rule timeframes
1725 during which an owner may operate an amusement ride event if the
1726 registered safety technician employed by the owner leaves
1727 employment.

1728 (h) Application for registration shall be on a form
1729 provided by the department. Application may be made by an
1730 individual or by an owner, a partner, or any person employed by
1731 the permit applicant. Upon successful completion of the
1732 requirements in paragraph (e), the department shall issue a
1733 registration.

1734 (i) The department may deny, refuse to renew, suspend, or
1735 revoke a registration for:

1736 1. Violation of any provision of this chapter or any rule
1737 or order of the department; or

1738 2. Falsification of records.

1739 (j) All examinations are confidential and exempt from s.
1740 119.07(1).

7-01620A-19

20191788__

1741 (14)~~(12)~~ MAJOR MODIFICATION.—After an amusement ride has
1742 undergone a major modification, and before ~~prior to~~ the time it
1743 is placed in operation, a professional engineer licensed by the
1744 state in which the certification is performed must certify that
1745 the amusement ride is in compliance with this section and all
1746 rules adopted pursuant thereto. The owner of the amusement ride
1747 must provide a copy of the required certification and all
1748 evidence used by the professional engineer to prepare the
1749 certification to the department upon request.

1750 (15)~~(13)~~ ENTRY FOR INSPECTION OR INVESTIGATION.—Upon
1751 presentation of identification, an authorized employee of the
1752 department may enter unannounced and inspect amusement rides at
1753 any time and in a reasonable manner and has the right to
1754 question any owner or manager; to inspect, investigate,
1755 photograph, and sample all pertinent places, areas, and devices;
1756 and to conduct or have conducted all appropriate tests including
1757 nondestructive testing. The department may impose fees for
1758 unannounced inspections and recover the cost of tests authorized
1759 by this subsection.

1760 (16)~~(14)~~ REPORTING AND INVESTIGATION OF ACCIDENTS AND
1761 DEFECTS; IMPOUNDMENTS.—

1762 (a) Any accident of which the owner or manager has
1763 knowledge or, through the exercise of reasonable diligence
1764 should have knowledge, and for which a patron is transported to
1765 a hospital, as defined in chapter 395, must be reported by the
1766 owner or manager to the department by telephone within 4 hours
1767 after the occurrence of the accident and must be followed up by
1768 a written report to the department within 24 hours after the
1769 occurrence of the accident.

7-01620A-19

20191788__

1770 (b) Any mechanical, structural, or electrical defects
1771 affecting patron safety for which an amusement ride is closed to
1772 patron use for more than 4 hours must be reported by the owner
1773 or manager to the department by telephone or facsimile within 8
1774 hours after the closing of the ride. A written report of the
1775 closing of the ride, on a form prescribed by rule of the
1776 department, must be filed by the owner or manager with the
1777 department within 24 hours after the closing of the amusement
1778 ride.

1779 (c) The department may impound an amusement ride involved
1780 in an accident for which a patron is transported to a hospital
1781 as defined in chapter 395 or which has a mechanical, structural,
1782 or electrical defect affecting patron safety, and may impound
1783 any other amusement ride of a similar make and model, and may
1784 perform all necessary tests to determine the cause of the
1785 accident or the mechanical, structural, or electrical defect, or
1786 to determine the safety of the amusement ride and any other
1787 amusement ride of a similar make and model. The cost of
1788 impounding the amusement ride and performing the necessary tests
1789 must be borne by the owner of the amusement ride.

1790 (17)-(15) INSPECTION BY OWNER, OR MANAGER, OR REGISTERED
1791 SAFETY TECHNICIAN.—~~Before opening on each day of operation and~~
1792 ~~before any inspection by the department,~~ The owner, or manager,
1793 or registered safety technician of an amusement ride must:

1794 (a) Implement and document procedures for performing
1795 documented and signed preopening inspections. The preopening
1796 inspection shall include, but is not limited to, ASTM
1797 International standards, as adopted by department rule.

1798 (b) Before opening on each day of operation and before any

7-01620A-19

20191788__

1799 scheduled inspection by the department, inspect each and test
1800 ~~the~~ amusement ride to ensure compliance with all requirements of
1801 this section. Each inspection must be recorded on a form
1802 prescribed by rule of the department and signed by the person
1803 who conducted the inspection and be reviewed by a registered
1804 safety technician if the registered safety technician did not
1805 conduct the inspection. In lieu of the form prescribed by rule
1806 of the department, the owner or manager may request approval of
1807 an alternative form if the alternative form includes, at a
1808 minimum, the information required on the form prescribed by rule
1809 of the department. Inspection records of the last 14 daily
1810 inspections must be kept on site by the owner or manager and
1811 made immediately available to the department upon request.

1812 (c) Implement and document procedures to be followed in the
1813 event of any unscheduled cessation of operation of the ride. The
1814 procedures shall require that when an unscheduled cessation of
1815 operation of the ride that is potentially due to mechanical
1816 failure occurs, the ride may not be operated again with patrons
1817 on board until an inspection or test operation of the ride has
1818 demonstrated that the ride is functioning properly.

1819 (18)-(16) TRAINING OF EMPLOYEES.—The owner or manager of an
1820 amusement ride shall:

1821 (a) Implement and document a program of training to be
1822 provided to all employees performing operations or maintenance.
1823 The training program shall conform to the specifications of ASTM
1824 International standards as adopted by department rule, include a
1825 manual containing the training subject matter, and specify the
1826 length of initial and refresher training as well as the
1827 frequency of refresher training.

7-01620A-19

20191788__

1828 **(b)** Maintain a record of employee training for each
1829 employee authorized to operate, assemble, disassemble,
1830 transport, or conduct maintenance on an amusement ride on a form
1831 prescribed by rule of the department. In lieu of the form
1832 prescribed by rule of the department, the owner or manager may
1833 request approval of an alternative form if the alternative form
1834 includes, at a minimum, the information required on the form
1835 prescribed by rule of the department. The training record must
1836 be kept on site by the owner or manager and made immediately
1837 available to the department upon request. Training may not be
1838 conducted when an amusement ride is open to the public unless
1839 the training is conducted under the supervision of an employee
1840 who is trained in the operation of that ride. The owner or
1841 manager shall certify that each employee is trained, as required
1842 by this section and any rules adopted thereunder, on the
1843 amusement ride for which the employee is responsible.

1844 **(19) MAINTENANCE.-**

1845 **(a)** The owner of an amusement ride shall implement a
1846 comprehensive program of maintenance, testing, and inspection
1847 based on the amusement ride manufacturer's recommendations which
1848 provides for the duties and responsibilities necessary to care
1849 for the ride. Maintenance procedures shall conform with
1850 specifications in ASTM F770 and ASTM F2291 as adopted by
1851 department rule.

1852 **(b)** Maintenance must be conducted in the presence of or
1853 approved by a registered safety technician.

1854 **(c)** If documentation meeting the requirements of paragraph
1855 (a) does not exist or is not available, maintenance procedures
1856 shall conform to manufacturer-originated maintenance

7-01620A-19

20191788__

1857 instructions and shall include, but not be limited to, the
1858 following:

1859 1. A description of the ride operation, including the
1860 function and operation of its major components.

1861 2. A description of the motions the ride is designed to
1862 undergo while in operation.

1863 3. Lubrication procedures, including types of lubricants
1864 and frequency of lubrication, and a lubrication drawing, chart,
1865 or other effective means of demonstrating lubrication point
1866 locations.

1867 4. A description, including a schedule, of all maintenance,
1868 testing, and inspections to be performed on the ride.

1869 5. Maintenance procedures for electrical components, as
1870 well as schematics of electrical power, lighting, and controls.

1871 6. Maintenance procedures and schematics for hydraulic and
1872 pneumatic systems on or used to control the ride, including
1873 component locations; location charts; fluid, pressure, line, and
1874 fitting specifications; and troubleshooting guidelines.

1875 7. Specifications for the use of replacement fasteners and,
1876 when applicable, torque requirements for fasteners.

1877 8. A checklist to be made available to each person
1878 performing the regularly scheduled maintenance on each ride.

1879 9. Additional requirements as prescribed by rule of the
1880 department.

1881 (d) Upon request, the owner shall, at no cost to the
1882 department, provide the department a copy of the manufacturer's
1883 current maintenance manual and documentation confirming a
1884 comprehensive maintenance program is being followed.

1885 (e) The owner shall keep a record of the assembly and

7-01620A-19

20191788__

1886 disassembly of, and all maintenance and repair performed on,
1887 each amusement ride. When such work is performed by a party
1888 other than the owner, the owner shall obtain a summary of work
1889 performed from the party as a record. Such records shall be
1890 retained and available for review by the department for at least
1891 3 years or until the maintenance action is repeated or suspended
1892 according to the manufacturer.

1893 (20)~~(17)~~ PROHIBITIONS RELATED TO BUNGY OPERATIONS.—The
1894 following bungee operations are prohibited:

1895 (a) A bungee operation conducted with balloons, blimps,
1896 helicopters, or other aircraft.

1897 (b) Sand bagging, which is the practice of holding onto any
1898 object, including another person, while bungee jumping, for the
1899 purpose of exerting more force on the bungee cord to stretch it
1900 further, and then releasing the object during the jump causing
1901 the jumper to rebound with more force than could be created by
1902 the jumper's weight alone.

1903 (c) Tandem or multiple bungee jumping.

1904 (d) Bungee jumping from any bridge, overpass, or any other
1905 structure not specifically designed as an amusement ride.

1906 (e) The practice of bungee catapulting or reverse bungee
1907 jumping.

1908 (21)~~(18)~~ IMMEDIATE FINAL ORDERS.—

1909 (a) An amusement ride that fails to meet the requirements
1910 of this section or pass the inspections required by this
1911 section, or an amusement ride that is involved in an accident
1912 for which a patron is transported to a hospital as defined in
1913 chapter 395, or an amusement ride that has a mechanical,
1914 structural, or electrical defect that affects patron safety may

7-01620A-19

20191788__

1915 be considered an immediate serious danger to public health,
1916 safety, and welfare and, upon issuance of an immediate final
1917 order prohibiting patron use of the ride, may not be operated
1918 for patron use until it has passed a subsequent inspection by or
1919 at the direction of the department.

1920 (b) An amusement ride of a similar make and model to an
1921 amusement ride described in paragraph (a) may be considered an
1922 immediate serious danger to the public health, safety, and
1923 welfare and, upon issuance of an immediate final order
1924 prohibiting patron use of the ride, may not be operated for
1925 patron use until it has passed a subsequent inspection by or at
1926 the direction of the department.

1927 (22) WITNESSES AND EVIDENCE.-

1928 (a) In any examination or investigation conducted by the
1929 department or by an examiner appointed by the department, the
1930 department may administer oaths, examine and cross-examine
1931 witnesses, receive oral and documentary evidence, subpoena
1932 witnesses, compel witness attendance and testimony, and require
1933 by subpoena the production of documents or other evidence which
1934 it deems relevant to the inquiry.

1935 (b) If any person refuses to comply with such subpoena or
1936 to testify as to any relevant matter, the Circuit Court of Leon
1937 County, or the circuit court of the county in which such
1938 examination or investigation is being conducted or the county in
1939 which such person resides pursuant to an application filed with
1940 the department, may issue an order requiring such person to
1941 comply with the subpoena and to testify. Any failure to obey
1942 such an order of the court may be punished by the court as a
1943 contempt thereof.

7-01620A-19

20191788__

1944 (c) Subpoenas shall be served and proof of such service
1945 made in the same manner as if issued by a circuit court. Witness
1946 fees and mileage, if claimed, shall be allowed the same as for
1947 testimony in a circuit court.

1948 (d) Any person willfully testifying falsely under oath as
1949 to any matter material to any such examination, investigation,
1950 or hearing shall, upon conviction thereof, be guilty of perjury
1951 and shall be punished accordingly.

1952 (e) If any person asks to be excused from attending or
1953 testifying or from producing any documents or other evidence in
1954 connection with any examination, hearing, or investigation being
1955 conducted on the ground that the testimony or evidence required
1956 may tend to incriminate him or her or subject him or her to a
1957 penalty or forfeiture and shall notwithstanding be directed to
1958 give such testimony or produce such evidence, he or she shall,
1959 if so directed by the department and the Department of Legal
1960 Affairs, nonetheless comply with such direction. The person
1961 shall not thereafter be prosecuted or subjected to any penalty
1962 or forfeiture for or on account of any transaction, matter, or
1963 thing concerning which he or she may have testified or produced
1964 evidence, and no testimony given or evidence produced shall be
1965 received against him or her in any criminal action,
1966 investigation, or proceeding. However, a person so testifying
1967 shall not be exempt from prosecution or punishment for any
1968 perjury committed by him or her in such testimony, and the
1969 testimony or evidence given or produced shall be admissible
1970 against him or her in any criminal action, investigation, or
1971 proceeding concerning such perjury; and the person shall not be
1972 exempt from the refusal, suspension, or revocation of any

7-01620A-19

20191788__

1973 license, permission, or authority conferred or to be conferred
 1974 pursuant to this chapter.

1975 (f) Any such individual may execute, acknowledge, and file
 1976 in the office of the department a statement expressly waiving
 1977 such immunity or privilege in respect to any transaction,
 1978 matter, or thing specified in such statement; and thereupon the
 1979 testimony of such individual or such evidence in relation to
 1980 such transaction, matter, or thing may be received or produced
 1981 before any judge or justice, court, tribunal, grand jury, or
 1982 otherwise; and, if so received or produced, such individual
 1983 shall not be entitled to any immunity or privileges on account
 1984 of any testimony he or she may so give or evidence so produced.

1985 (g) Any person who refuses or fails without lawful cause to
 1986 testify relative to the affairs of any person, when subpoenaed
 1987 and requested by the department to so testify, is guilty of a
 1988 misdemeanor of the second degree, punishable as provided in s.
 1989 775.083.

1990 (23) ~~(19)~~ ENFORCEMENT AND PENALTIES.-

1991 (a) The department may deny, suspend for a period not to
 1992 exceed 1 year, or revoke any permit ~~or inspection certificate~~.
 1993 In addition to denial, suspension, or revocation, the department
 1994 may impose an administrative fine in the Class III ~~Class II~~
 1995 category pursuant to s. 570.971 not to exceed \$10,000 ~~\$2,500~~ for
 1996 each violation, for each day the violation exists, against the
 1997 owner of the amusement ride if it finds that:

1998 1. An amusement ride has operated or is operating:

1999 a. With a mechanical, structural, or electrical defect that
 2000 affects patron safety, of which the owner, ~~or~~ manager, or
 2001 registered safety technician has knowledge, or, through the

7-01620A-19

20191788__

2002 exercise of reasonable diligence, should have knowledge;

2003 b. In a manner or circumstance that presents a risk of
2004 serious injury to patrons;

2005 c. At a speed in excess of its maximum safe operating
2006 speed;

2007 d. In violation of this section or any rule adopted under
2008 this section; or

2009 e. In violation of an order of the department or order of
2010 any court; ~~or~~

2011 2. An owner, a manager, or registered safety technician in
2012 the course of his or her duties is under the influence of drugs
2013 or alcohol; or

2014 3. An amusement ride was presented for inspection as ready
2015 for operation with a mechanical, structural, or electrical
2016 defect that affects patron safety, of which the owner, manager,
2017 or registered safety technician has knowledge or, through the
2018 exercise of reasonable diligence, should have knowledge.

2019 (b) In addition to the penalty provided in paragraph (a),
2020 the department may impose an administrative fine in the Class IV
2021 category pursuant to s. 570.971 of \$10,000 or more if a
2022 violation resulted in serious injury or death to a patron.

2023 (c) ~~(b)~~ The department shall, in its order suspending a
2024 permit ~~or inspection certificate~~, specify the period during
2025 which the suspension is effective; but such period may not
2026 exceed 1 year. The permit ~~or inspection certificate~~ shall remain
2027 suspended during the period so specified, subject, however, to
2028 any rescission or modification of the order by the department,
2029 or modification or reversal thereof by the court, before ~~prior~~
2030 ~~to~~ expiration of the suspension period.

7-01620A-19

20191788__

2031 (d)~~(e)~~ The owner or manager of an amusement ride, if the
2032 permit ~~or inspection certificate~~ for the amusement ride has been
2033 revoked by the department, may not apply for another permit ~~or~~
2034 ~~inspection certificate~~ for the amusement ride within 2 years
2035 after the date of such revocation. If judicial review is sought
2036 and a stay of the revocation is obtained, the owner may not
2037 apply for another permit ~~or inspection certificate~~ within 2
2038 years after the final order of the court sustaining the
2039 revocation.

2040 (e)~~(d)~~ During the period of suspension or revocation of a
2041 permit ~~or inspection certificate~~, the owner may not engage in or
2042 attempt to engage in any operation of the amusement ride for
2043 which a permit ~~or inspection certificate~~ is required under this
2044 section.

2045 (f)~~(e)~~ When a suspension period imposed by the department
2046 has expired, an owner whose annual permit ~~or inspection~~
2047 ~~certificate~~ has expired may reapply for a new permit ~~or~~
2048 ~~inspection certificate~~ by submitting a complete application to
2049 the department.

2050 (g)~~(f)~~ In addition to the remedies provided in this
2051 section, and notwithstanding the existence of any adequate
2052 remedy at law, the department may bring an action to enjoin the
2053 violation of any provision of this section, or rules adopted
2054 under this section, in the circuit court of the county in which
2055 the violation occurs or is about to occur. Upon competent and
2056 substantial evidence presented by the department to the court of
2057 the violation or threatened violation, the court must
2058 immediately issue the temporary or permanent injunction sought
2059 by the department. The injunction must be issued without bond.

7-01620A-19

20191788__

2060 (h)~~(g)~~ In addition to the penalties authorized to be
2061 imposed for any violation of this section or any rule adopted
2062 under this section, the department may issue a letter of warning
2063 to the owner of the amusement ride specifying the violation and
2064 directing the owner to immediately correct the violation.

2065 (i)~~(h)~~ Any person who knowingly violates any provision of
2066 this section commits a misdemeanor of the second degree,
2067 punishable as provided in s. 775.082 or s. 775.083.

2068 Section 21. This act shall take effect July 1, 2019.

2069