

By the Committee on Commerce and Tourism; and Senator Baxley

577-02021-20

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1 A bill to be entitled
2 An act relating to consumer protection; creating s.
3 501.0195, F.S.; providing legislative findings and
4 intent; defining the term "unlicensed vendor";
5 requiring an unlicensed vendor to take certain actions
6 within a specified timeframe after receiving payment;
7 providing an exception; providing that the unlicensed
8 vendor has the burden to prove just cause; providing
9 criminal penalties; amending s. 501.022, F.S.;
10 removing an exemption from permitting requirements for
11 certain solicitors, salespersons, and agents;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 501.0195, Florida Statutes, is created
17 to read:

18 501.0195 Home repairs by unlicensed vendors.—

19 (1) The Legislature finds that vigorous enforcement of
20 residential contracting laws is necessary to protect residents,
21 consumers, and this state's economy, and therefore, the
22 Legislature intends that this section be strictly construed and
23 enforced.

24 (2) For the purposes of this section, the term "unlicensed
25 vendor" means a person who:

26 (a) Provides or promises to provide services related to a
27 residential home or the extended parcel of land on which the
28 home is located, including, but not limited to, driveways,
29 lawns, trees, gardens, landscaping areas, walls, fences, or

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30 other vegetation or fixtures located thereon; and

31 (b) Is not deemed a "contractor" under s. 489.105(3).

32 (3) (a) An unlicensed vendor who receives an initial payment
33 of any amount must do all of the following unless the unlicensed
34 vendor has just cause or has agreed, in writing, with the person
35 who made the payment to a longer timeframe for performance:

36 1. If the work requires a permit, apply for such permits
37 within 14 days after receiving payment for the work.

38 2. Start the work within 14 days after receiving payment
39 for the work or within 14 days after the date all necessary
40 permits for work, if any, are issued.

41 3. Perform the work, without any failure to continue the
42 work for any 14-day period after payment is made or 14 days
43 after the date all necessary permits for work, if any, are
44 issued.

45 (b) There is a presumption that an unlicensed vendor does
46 not have just cause if the unlicensed vendor fails to comply
47 with paragraph (a), fails to refund the payment within 14 days
48 after receiving payment, or fails to continue the work for any
49 14-day period after the date all necessary permits for work, if
50 any, are issued. The burden is on the unlicensed vendor to prove
51 just cause and to rebut the presumption.

52 (4) A violation of this section is:

53 (a) If the total money received is less than \$300, a
54 misdemeanor of the first degree, punishable as provided in s.
55 775.082 or s. 775.083.

56 (b) If the total money received is less than \$300 and the
57 unlicensed vendor has had more than one violation within a 3-
58 year period, a felony of the third degree, punishable as

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59 provided in s. 775.082, s. 775.083, or s. 775.084.

60 (c) If the total money received is greater than or equal to
61 \$300 but less than \$5,000, a felony of the third degree,
62 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

63 (d) If the total money received is \$5,000 or more but less
64 than \$50,000, a felony of the second degree, punishable as
65 provided in s. 775.082, s. 775.083, or s. 775.084.

66 (e) If the total money received is \$50,000 or more, a
67 felony of the first degree, punishable as provided in s.
68 775.082, s. 775.083, or s. 775.084.

69 Section 2. Paragraphs (a) and (b) of subsection (1) of
70 section 501.022, Florida Statutes, are amended to read:

71 501.022 Home solicitation sale; permit required.—

72 (1)(a) It is unlawful for any person to conduct any home
73 solicitation sale, as defined in s. 501.021, or to supervise
74 excluded minors conducting such sales provided in subparagraph
75 (b)4. ~~subparagraph (b)5.~~, in this state without first obtaining
76 a valid home solicitation sale permit as provided in this
77 section.

78 (b) The following are excluded from the operation of this
79 section:

80 1. Bona fide agents, business representatives, or
81 salespersons making calls or soliciting orders at the usual
82 place of business of a customer regarding products or services
83 for use in connection with the customer's business.

84 2. Solicitors, salespersons, or agents making a call or
85 business visit upon the express invitation, oral or written, of
86 an inhabitant of the premises or her or his agent.

87 3. Telephone solicitors, salespersons, or agents making

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88 calls which involve transactions that are unsolicited by the
89 consumer and consummated by telephone and without any other
90 contact between the buyer and the seller or its representative
91 before ~~prior to~~ delivery of the goods or performance of the
92 services.

93 ~~4. Solicitors, salespersons, or agents conducting a sale,~~
94 ~~lease, or rental of consumer goods or services by sample,~~
95 ~~catalog, or brochure for future delivery.~~

96 4.5. Minors, as defined in s. 1.01(13), conducting home
97 solicitation sales under the supervision of an adult supervisor
98 who holds a valid home solicitation sale permit. Minors excluded
99 from operation of this section must, however, carry personal
100 identification which includes their full name, date of birth,
101 residence address, and employer and the name and permit number
102 of their adult supervisor.

103 ~~5.6.~~ Those sellers or their representatives that are
104 currently regulated as to the sale of goods and services by
105 chapter 475 or chapter 497.

106 ~~6.7.~~ Solicitors, salespersons, or agents making calls or
107 soliciting orders on behalf of a religious, charitable,
108 scientific, educational, or veterans' institution or
109 organization holding a sales tax exemption certificate under s.
110 212.08(7).

111 Section 3. This act shall take effect July 1, 2020.