

By Senator Martin

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A bill to be entitled
An act relating to the Department of Business and Professional Regulation; amending s. 20.165, F.S.; revising the primary investigative, enforcement, and prosecutorial responsibilities of law enforcement officers appointed by the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation; amending s. 448.095, F.S.; revising the lists of persons or entities that may request copies of certain documentation relied on by an employer to verify a new employee's employment eligibility to include the department; requiring the department to notify the Department of Commerce and the Department of Law Enforcement within a specified timeframe if it believes an employer failed to properly verify an employee's employment eligibility; amending s. 468.412, F.S.; revising a provision prohibiting talent agencies from sending or causing to be sent any employee or minor to certain locations for certain purposes; providing an exception; providing criminal penalties; amending s. 509.261, F.S.; providing that a public lodging establishment or public food service establishment that distributes or sells hemp extract in violation of the state hemp program is subject to specified penalties; amending s. 559.79, F.S.; authorizing the Department of Business and Professional Regulation to request certain personal identification information from an applicant or

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licensee to evaluate and validate the applicant's or licensee's work authorization status; authorizing the department to request specified information; authorizing the department to submit an applicant's or licensee's personal identification information to the appropriate federal agencies to validate the applicant's or licensee's identity or work authorization status; requiring the department to suspend the license of any licensee found not to have work authorization status; requiring the department to reinstate a license without additional charge to the licensee upon verification that the licensee is authorized to work in the United States; providing that the department is not liable for any licensure delay, denial, or suspension; authorizing the department to enter into memoranda of understanding; authorizing the department to adopt rules; amending s. 569.006, F.S.; revising the circumstances in which the division may suspend or revoke the permit of a retail tobacco products dealer; creating s. 569.24, F.S.; prohibiting a dealer, or a dealer's agents or employees, from possessing, selling, or possessing with the intent to sell, deliver, or give, directly or indirectly, nitrous oxide; providing applicability; providing criminal penalties; amending s. 569.35, F.S.; revising the circumstances in which the division may suspend or revoke the permit of a retail nicotine product dealer; amending s. 877.111, F.S.; deleting nitrous oxide as a prohibited substance to be inhaled

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or ingested for specified purposes; deleting criminal penalties related to the inhalation or ingestion of nitrous oxide; deleting applicability; making technical changes; creating s. 877.113, F.S.; prohibiting a person from inhaling, ingesting, or possessing with the intent to inhale or ingest for specified purposes any compound, liquid, or chemical containing nitrous oxide; providing criminal penalties; providing that the possession or presence of any drug paraphernalia constitutes prima facie evidence that the person possessed, distributed, sold, transferred, or possessed with the intent to sell, inhale, or ingest nitrous oxide for specified purposes; authorizing a court to require a person to participate in a substance abuse services program that is approved or regulated by the Department of Children and Families; providing that such participation may be imposed in addition to, or in lieu of, any penalty or probation otherwise prescribed by law; prohibiting such penalty, probation, or program participation from exceeding the maximum sentence possible for an offense; providing applicability; amending s. 316.193, F.S.; conforming a provision to changes made by the act; reenacting s. 448.09(2), F.S., relating to the prohibition against the employment of unauthorized aliens, to incorporate the amendment made to s. 448.095, F.S., in a reference thereto; reenacting ss. 893.145(12) and 948.15(1), F.S., relating to the definition of "drug paraphernalia" and misdemeanor

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probation services, respectively, to incorporate the amendment made to s. 877.111, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (b) of subsection (9) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—
There is created a Department of Business and Professional Regulation.

(9)

(b) Each employee serving as a law enforcement officer for the division must meet the qualifications for employment or appointment as a law enforcement officer set forth under s. 943.13 and must be certified as a law enforcement officer by the Department of Law Enforcement under chapter 943. Upon certification, each law enforcement officer is subject to and has the same authority as provided for law enforcement officers generally in chapter 901 and has statewide jurisdiction. Each officer also has arrest authority as provided for state law enforcement officers in s. 901.15. Each officer possesses the full law enforcement powers granted to other peace officers of this state, including the authority to make arrests, carry firearms, serve court process, and seize contraband and the proceeds of illegal activities.

1. The primary responsibility of each officer appointed under this section is to investigate, enforce, and prosecute, throughout the state, violations and violators of parts I and II

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of chapter 210, chapter 310, chapter 326, parts I and III of
chapter 450, chapter 455, parts VI-IX, XI, XII, XV, and XVI of
chapter 468, chapter 469, chapter 471, chapters 473-477, chapter
481, parts I and II of chapter 489, chapter 499, chapter 509,
chapter 548, chapter 553, part VII of chapter 559, and chapters
561-569, chapters 718 and 719, chapter 721, and chapter 723, and
the rules adopted thereunder, as well as other state laws that
the division, all state law enforcement officers, or beverage
enforcement agents are specifically authorized to enforce.

2. The secondary responsibility of each officer appointed
under this section is to enforce all other state laws, provided
that the enforcement is incidental to exercising the officer's
primary responsibility as provided in subparagraph 1., and the
officer exercises the powers of a deputy sheriff, only after
consultation or coordination with the appropriate local
sheriff's office or municipal police department or when the
division participates in the Florida Mutual Aid Plan during a
declared state emergency.

Section 2. Paragraph (a) of subsection (3) of section
448.095, Florida Statutes, is amended, and paragraph (c) is
added to that subsection, to read:

448.095 Employment eligibility.—

(3) ENFORCEMENT.—

(a) For the purpose of enforcement of this section, any of
the following persons or entities may request, and an employer
must provide, copies of any documentation relied upon by the
employer for the verification of a new employee's employment
eligibility:

1. The Department of Law Enforcement;

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146 2. The Attorney General;

147 3. The state attorney in the circuit in which the new
148 employee works;

149 4. The statewide prosecutor; ~~or~~

150 5. The Department of Commerce; or

151 6. The Department of Business and Professional Regulation.

152 (c) If the Department of Business and Professional
153 Regulation believes an employer violated subsection (2) or s.
154 448.09, it must notify the Department of Commerce and the
155 Department of Law Enforcement within 30 days after making such
156 determination.

157 Section 3. Subsection (7) of section 468.412, Florida
158 Statutes, is amended to read:

159 468.412 Talent agency regulations; prohibited acts.—

160 (7)(a) A ~~No~~ talent agency may not send or cause to be sent
161 a ~~any~~ person as an employee or a minor to a ~~any~~ house of ill
162 fame, to a ~~any~~ house or place of amusement for immoral purposes,
163 or to a ~~any~~ place resorted to for the purposes of prostitution,
164 the character of which places the talent agency could have
165 ascertained upon reasonable inquiry. A person who violates this
166 paragraph commits a felony of the third degree, punishable as
167 provided in s. 775.082, s. 775.083, or s. 775.084 ~~to any place~~
168 ~~for the modeling or photographing of a minor in the nude in the~~
169 ~~absence of written permission from the minor's parents or legal~~
170 ~~guardians, the character of which places the talent agency could~~
171 ~~have ascertained upon reasonable inquiry.~~

172 (b) A talent agency may not send or cause to be sent a
173 minor to any place for the purpose of modeling or photographing
174 in the nude unless given written permission from the minor's

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parent or legal guardian. A person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Subsection (1) of section 509.261, Florida Statutes, is amended to read:

509.261 Revocation or suspension of licenses; fines; procedure.—

(1) Any public lodging establishment or public food service establishment that has operated or is operating in violation of this chapter, s. 581.217(7), or the rules of the division, operating without a license, or operating with a suspended or revoked license may be subject by the division to:

(a) Fines not to exceed \$1,000 per offense;

(b) Mandatory completion, at personal expense, of a remedial educational program administered by a food safety training program provider approved by the division, as provided in s. 509.049; and

(c) The suspension, revocation, or refusal of a license issued pursuant to this chapter.

Section 5. Present subsection (3) of section 559.79, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

559.79 Applications for license or renewal.—

(3) (a) An application for a license or renewal of a license issued by the department may be evaluated to validate the applicant's or licensee's identity and work authorization status. As part of the validation process, the department may request personal identification information, including, but not limited to, any of the following:

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204 1. Social security number.

205 2. Passport, including visa information.

206 3. Birth certificate.

207 4. Immigration status.

208 5. Alien registration number.

209 6. Student and Exchange Visitor Information System
210 identification number.

211 7. Naturalization or citizenship certificate number.

212 8. Arrival and departure record.

213 9. Permanent resident card.

214 10. Employment authorization documents.

215 11. Certificate of citizenship.

216 12. Naturalization certificate.

217 13. Refugee travel document.

218 14. State-issued identification.

219 (b) The department may submit an applicant's or licensee's
220 personal identification information to the appropriate federal
221 agencies for the purpose of validating the applicant's or
222 licensee's identity or work authorization status.

223 (c) The department shall immediately suspend the license of
224 any licensee found not to have a work authorization status that
225 entitles the licensee to work in the United States. The
226 department shall reinstate the license, without additional
227 charge to the licensee, upon verification with the appropriate
228 federal agencies that the licensee is authorized to work in the
229 United States.

230 (d) The department is not liable for any licensure delay,
231 denial, or suspension resulting from the discharge of its duties
232 under this subsection.

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(e) The department may enter into memoranda of understanding with the appropriate federal agencies to validate an applicant's or licensee's identity or work authorization status.

(f) The department may adopt rules to implement this section.

Section 6. Section 569.006, Florida Statutes, is amended to read:

569.006 Retail tobacco products dealers; administrative penalties.—The division may suspend or revoke the permit of the dealer upon sufficient cause appearing of the violation of any law of this state or any state or territory of the United States ~~of the provisions of this chapter, including part II of this chapter~~ if the dealer deals, at retail, in nicotine products within this the state, or allows a nicotine products vending machine to be located on its premises within this the state, by a dealer or by a dealer's agent or employee. The division may also assess and accept administrative fines of up to \$1,000 against a dealer for each violation. The division shall deposit all fines collected into the General Revenue Fund as collected. An order imposing an administrative fine becomes effective 15 days after the date of the order. The division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the division considers appropriate.

Section 7. Section 569.24, Florida Statutes, is created to read:

569.24 Selling, furnishing, or giving nitrous oxide prohibited by retailers of tobacco or nicotine products;

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262 exceptions.—

263 (1)(a) A dealer licensed under this chapter, or a dealer's
264 agents or employees, may not possess, sell, possess with intent
265 to sell, deliver, or give, directly or indirectly, nitrous oxide
266 of any quantity on or from their licensed premises.

267 (b) This subsection does not apply to establishments
268 licensed under this chapter and operating as a grocery store if
269 such establishment has a licensed premises comprised of at least
270 10,000 square feet of retail floor space dedicated to the
271 display and sale of groceries and does not qualify as a
272 "convenience business" as defined in s. 812.171.

273 (2) Any dealer, or a dealer's agents or employees, who
274 violates subsection (1) commits a felony of the third degree,
275 punishable as provided in s. 775.082, s.775.083, or s. 775.084.

276 Section 8. Section 569.35, Florida Statutes, is amended to
277 read:

278 569.35 Retail nicotine product dealers; administrative
279 penalties.—The division may suspend or revoke the permit of a
280 dealer, including the retail tobacco products dealer permit of a
281 retail tobacco products dealer as defined in s. 569.002(4), upon
282 sufficient cause appearing of the violation of any law of this
283 state or any state or territory of the United States ~~of the~~
284 ~~provisions of this part,~~ by a dealer, ~~or by~~ a dealer's agent or
285 employee. The division may also assess and accept an
286 administrative fine of up to \$1,000 against a dealer for each
287 violation. The division shall deposit all fines collected into
288 the General Revenue Fund as collected. An order imposing an
289 administrative fine becomes effective 15 days after the date of
290 the order. The division may suspend the imposition of a penalty

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291 against a dealer, conditioned upon the dealer's compliance with
292 terms the division considers appropriate.

293 Section 9. Subsections (1), (4), and (5) of section
294 877.111, Florida Statutes, are amended to read:

295 877.111 Inhalation, ingestion, possession, sale, purchase,
296 or transfer of harmful chemical substances; penalties.—

297 (1) It is unlawful for any person to inhale or ingest, or
298 to possess with intent to breathe, inhale, or drink, any
299 compound, liquid, or chemical containing toluol, hexane,
300 trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl
301 ketone, trichloroethane, isopropanol, methyl isobutyl ketone,
302 ethylene glycol monomethyl ether acetate, cyclohexanone, ~~nitrous~~
303 ~~oxide~~, diethyl ether, alkyl nitrites (butyl nitrite), or any
304 similar substance for the purpose of inducing a condition of
305 intoxication or which distorts or disturbs the auditory, visual,
306 or mental processes. This section does not apply to the
307 possession and use of these substances as part of the care or
308 treatment of a disease or injury by a practitioner licensed
309 under chapter 458, chapter 459, part I of chapter 464, ~~or~~
310 chapter 466, or to beverages controlled by ~~the provisions of~~
311 chapter 561, chapter 562, chapter 563, chapter 564, or chapter
312 565.

313 (4) ~~Any person who knowingly distributes, sells, purchases,~~
314 ~~transfers, or possesses more than 16 grams of nitrous oxide~~
315 ~~commits a felony of the third degree which shall be known as~~
316 ~~unlawful distribution of nitrous oxide, punishable as provided~~
317 ~~in s. 775.082, s. 775.083, or s. 775.084. For purposes of this~~
318 ~~subsection, in addition to proving by any other means that~~
319 ~~nitrous oxide was knowingly possessed, distributed, sold,~~

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~~purchased, or transferred, proof that any person discharged, or
aided another in discharging, nitrous oxide to inflate a balloon
or any other object suitable for subsequent inhalation creates
an inference of the person's knowledge that the nitrous oxide's
use was for an unlawful purpose. This subsection does not apply
to the possession and use of nitrous oxide as part of the care
and treatment of a disease or injury by a practitioner licensed
under chapter 458, chapter 459, chapter 464, chapter 466, or
chapter 474; as a food processing propellant; as a semiconductor
oxidizer; as an analytical chemistry oxidizer in atomic
absorption spectrometry; in the production of chemicals used to
inflate airbags; as an oxidizer for chemical production,
combustion, or jet propulsion; or as a motor vehicle induction
additive when mixed with sulphur dioxide.~~

~~(5) Any person who violates any of the provisions of this
section may, in the discretion of the trial judge, be required
to participate in a substance abuse services program approved or
regulated by the Department of Children and Families pursuant to
the provisions of chapter 397, provided the director of the
program approves the placement of the defendant in the program.
Such required participation may be imposed in addition to, or in
lieu of, any penalty or probation otherwise prescribed by law.
However, the total time of such penalty, probation, and program
participation may shall not exceed the maximum length of
sentence possible for the offense.~~

Section 10. Section 877.113, Florida Statutes, is created
to read:

877.113 Inhalation, ingestion, possession, sale, purchase,
or transfer of nitrous oxide; penalties; exemption.-

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349 (1) It is unlawful for any person to inhale or ingest, or
350 possess with intent to inhale or ingest, any compound, liquid,
351 or chemical containing nitrous oxide for the purpose of inducing
352 a condition of intoxication or a condition that distorts or
353 disturbs the auditory, visual, or mental processes.

354 (2) A person who violates subsection (1) commits a
355 misdemeanor of the second degree, punishable as provided in s.
356 775.082 or s. 775.083.

357 (3) A person who knowingly possesses more than 16 grams of
358 nitrous oxide commits a felony of the third degree, punishable
359 as provided in s. 775.082, s. 775.083, or s. 775.084.

360 (4) A person who knowingly distributes, sells, purchases,
361 or transfers nitrous oxide to another person for purposes of
362 intoxication commits a felony of the third degree, punishable as
363 provided in s. 775.082, s. 775.083, or s. 775.084.

364 (5) A person who knowingly distributes, sells, purchases,
365 or transfers nitrous oxide to a person younger than 18 years of
366 age for purposes of intoxication commits a felony of the second
367 degree, punishable as provided in s. 775.082, s. 775.083, or s.
368 775.084.

369 (6) A person who knowingly distributes, sells, or possesses
370 with intent to sell flavored nitrous oxide commits a felony of
371 the third degree, punishable as provided in s. 775.082, s.
372 775.083, or s. 775.084. Subsection (9) does not apply to this
373 subsection.

374 (7) The possession or presence of any drug paraphernalia as
375 defined in s. 893.145 constitutes prima facie evidence that a
376 person possessed, distributed, sold, transferred, or possessed
377 with intent to sell, inhaled, or ingested nitrous oxide for

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purposes of intoxication.

(8) A court may require a person who violates this section to participate in a substance abuse services program approved or regulated by the Department of Children and Families pursuant to chapter 397, provided that the director of the program approves the placement of the defendant in the program. Such required participation may be imposed in addition to, or in lieu of, any penalty or probation otherwise prescribed by law. However, the total time of such penalty, probation, or program participation may not exceed the maximum sentence possible for the offense.

(9) This section does not apply to the possession and use of nitrous oxide by a practitioner licensed under chapter 458, chapter 459, chapter 464, chapter 466, or chapter 474 as part of the care and treatment of a disease or injury; as a food processing propellant; as a semiconductor oxidizer; as an analytical chemistry oxidizer in atomic absorption spectrometry; in the production of chemicals used to inflate airbags; as an oxidizer for chemical production, combustion, or jet propulsion; or as a motor vehicle induction additive when mixed with sulfur dioxide.

Section 11. Subsection (1) of section 316.193, Florida Statutes, is amended to read:

316.193 Driving under the influence; penalties.—

(1) A person commits ~~is guilty of~~ the offense of driving under the influence and is subject to punishment as provided in subsection (2) if the person is driving or in actual physical control of a vehicle within this state and:

(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in ss. 877.111 and

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407 877.113 ~~s. 877.111~~, or any substance controlled under chapter
408 893, when affected to the extent that the person's normal
409 faculties are impaired;

410 (b) The person has a blood-alcohol level of 0.08 or more
411 grams of alcohol per 100 milliliters of blood; or

412 (c) The person has a breath-alcohol level of 0.08 or more
413 grams of alcohol per 210 liters of breath.

414 Section 12. For the purpose of incorporating the amendment
415 made by this act to section 448.095, Florida Statutes, in a
416 reference thereto, subsection (2) of section 448.09, Florida
417 Statutes, is reenacted to read:

418 448.09 Unauthorized aliens; employment prohibited.—

419 (2) If the Department of Commerce finds or is notified by
420 an entity specified in s. 448.095(3)(a) that an employer has
421 knowingly employed an unauthorized alien without verifying the
422 employment eligibility of such person, the department must enter
423 an order pursuant to chapter 120 making such determination and
424 require repayment of any economic development incentive pursuant
425 to s. 288.061(6).

426 Section 13. For the purpose of incorporating the amendment
427 made by this act to section 877.111, Florida Statutes, in a
428 reference thereto, subsection (12) of section 893.145, Florida
429 Statutes, is reenacted to read:

430 893.145 "Drug paraphernalia" defined.—The term "drug
431 paraphernalia" means all equipment, products, and materials of
432 any kind which are used, intended for use, or designed for use
433 in planting, propagating, cultivating, growing, harvesting,
434 manufacturing, compounding, converting, producing, processing,
435 preparing, testing, analyzing, packaging, repackaging, storing,

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436 containing, concealing, transporting, injecting, ingesting,
437 inhaling, or otherwise introducing into the human body a
438 controlled substance in violation of this chapter or s. 877.111.
439 Drug paraphernalia is deemed to be contraband which shall be
440 subject to civil forfeiture. The term includes, but is not
441 limited to:

442 (12) Objects used, intended for use, or designed for use in
443 ingesting, inhaling, or otherwise introducing controlled
444 substances, as described in s. 893.03, or substances described
445 in s. 877.111(1) into the human body, such as:

446 (a) Metal, wooden, acrylic, glass, stone, plastic, or
447 ceramic pipes, with or without screens, permanent screens,
448 hashish heads, or punctured metal bowls.

449 (b) Water pipes.

450 (c) Carburetion tubes and devices.

451 (d) Smoking and carburetion masks.

452 (e) Roach clips: meaning objects used to hold burning
453 material, such as a cannabis cigarette, that has become too
454 small or too short to be held in the hand.

455 (f) Miniature cocaine spoons, and cocaine vials.

456 (g) Chamber pipes.

457 (h) Carburetor pipes.

458 (i) Electric pipes.

459 (j) Air-driven pipes.

460 (k) Chillums.

461 (l) Bongs.

462 (m) Ice pipes or chillers.

463 (n) A cartridge or canister, which means a small metal
464 device used to contain nitrous oxide.

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(o) A charger, sometimes referred to as a "cracker," which means a small metal or plastic device that contains an interior pin that may be used to expel nitrous oxide from a cartridge or container.

(p) A charging bottle, which means a device that may be used to expel nitrous oxide from a cartridge or canister.

(q) A whip-it, which means a device that may be used to expel nitrous oxide.

(r) A tank.

(s) A balloon.

(t) A hose or tube.

(u) A 2-liter-type soda bottle.

(v) Duct tape.

Section 14. For the purpose of incorporating the amendment made by this act to section 877.111, Florida Statutes, in a reference thereto, subsection (1) of section 948.15, Florida Statutes, is reenacted to read:

948.15 Misdemeanor probation services.—

(1) A defendant found guilty of a misdemeanor who is placed on probation shall be under supervision not to exceed 6 months unless otherwise specified by the court. Probation supervision services for a defendant found guilty of a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893 may be provided by a licensed substance abuse education and intervention program, which may provide substance abuse education and intervention as well as any other terms and conditions of probation. In relation to any offense other than a felony in which the use of alcohol; a controlled substance, as defined in s. 893.02; a controlled substance analog, as defined

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494 in s. 893.0356; or a chemical substance described in s.
495 877.111(1) is a significant factor, the period of probation may
496 be up to 1 year.

497 Section 15. This act shall take effect July 1, 2026.