

## House Bill No. 1055

An act relating to the Florida Statutes; amending ss. 469.005, 473.302, 473.323, 483.23, 484.0445, 484.053, 487.011, 487.012, 487.021, 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046, 487.047, 487.048, 487.049, 487.051, 487.0615, 487.071, 487.081, 487.091, 487.101, 487.111, 487.13, 487.156, 487.159, 487.161, 487.163, 487.171, 487.175, 489.103, 489.1136, 489.131, 489.133, 489.140, 489.141, 489.531, 494.0038, 497.255, 497.353, 501.022, 501.0575, 501.608, 509.032, 509.302, 514.031, 517.021, 517.12, 539.001, 548.004, 550.1625, 550.2625, 550.375, 553.06, 553.141, 553.503, 553.506, 553.512, 553.73, 553.74, 559.807, 560.129, 561.1105, 561.20, 570.1912, 570.235, 578.28, 585.74, 585.91, 589.101, 590.02, 593.111, 601.04, 601.155, 616.242, 626.8414, 627.651, 631.0515, and 631.911, F.S.; and reenacting ss. 483.811(6), 559.803, and 567.07, F.S., pursuant to s. 11.242, F.S.; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

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

Section 1. Subsection (3) of section 469.005, Florida Statutes, is amended to read:

469.005 License requirements.—All applicants for licensure as either asbestos consultants or asbestos contractors shall:

(3) When applying for licensure as an asbestos contractor, successfully complete the following department-approved courses:

(a) An asbestos contractor/supervisor course. Such course shall consist of not less than 5 days of instruction.

(b) A respiratory protection course. Such course shall consist of not less than 3 days of instruction.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 2. Paragraph (a) of subsection (7) of section 473.302, Florida Statutes, is amended to read:

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

(7) "Practice of," "practicing public accountancy," or "public accounting" means:

(a) Offering to perform or performing for the public one or more types of services involving the expression of an opinion on financial statements, the attestation as an expert in accountancy to the reliability or fairness of presentation of financial information, the utilization of any form of opinion or financial statements that provide a level of assurance, the utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed, or the expression of an opinion on the reliability of an assertion by one party for the use by a third party;

However, these terms shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 3. Paragraph (a) of subsection (1) of section 473.323, Florida Statutes, is amended to read:

473.323 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(a) Violation of any provision of s. 455.227(1), ~~s. 473.317~~, or any other provision of this chapter.

Reviser's note.—Amended to conform to the repeal of s. 473.317 by s. 10, ch. 95-140, Laws of Florida.

Section 4. Paragraph (a) of subsection (1) and subsection (2) of section 483.23, Florida Statutes, are amended to read:

483.23 Offenses; criminal penalties.—

(1)(a) It is unlawful for any person to:

1. Operate, maintain, direct, or engage in the business of operating a clinical laboratory unless she or he has obtained a clinical laboratory license from the agency or is exempt under s. 483.031.

2. Conduct, maintain, or operate a clinical laboratory, other than an exempt laboratory or a laboratory operated under s. 483.035, unless the clinical laboratory is under the direct and responsible supervision and direction of a person licensed under part ~~III~~ IV of this chapter.

3. Allow any person other than an individual licensed under part ~~III~~ IV of this chapter to perform clinical laboratory procedures, except in the opera-

tion of a laboratory exempt under s. 483.031 or a laboratory operated under s. 483.035.

4. Violate or aid and abet in the violation of any provision of this part or the rules adopted under this part.

(2) Any use or attempted use of a forged license under this part or part III IV of this chapter constitutes the crime of forgery.

Reviser's note.—Amended to conform to the redesignation of part IV of chapter 483 as part III necessitated by the repeal of sections constituting former part III by s. 1, ch. 96-108, Laws of Florida.

Section 5. Subsection (6) of section 483.811, Florida Statutes, is reenacted to read:

483.811 Approval of laboratory personnel training programs.—

(6) If the board finds that an approved program no longer meets the required standards, the department may rescind the approval.

Reviser's note.—Section 22, ch. 93-178, Laws of Florida, purported to amend s. 483.811(4) and redesignated it as subsection (6), but failed to republish the phrase “may rescind the approval” at the end of the subsection. In the absence of affirmative evidence that the Legislature intended to repeal the phrase, subsection (6) is reenacted to confirm that the omission was not intended.

Section 6. Subsection (1) of section 484.0445, Florida Statutes, is amended to read:

484.0445 Training program.—

(1) The board shall establish by rule a training program not to exceed 6 months in length, which may include a board-approved home study course. Upon submitting to the department the registration fee, the applicant may register and enter the training program. Upon completion of the training program, the trainee shall take the first available written and practical examinations offered by the department. The department shall administer the written and practical examinations as prescribed by board rule. If the trainee fails either the written or the practical examination, she or he may repeat the training program one time and retake the failed examination, provided she or he takes the next available examination. No person may remain in trainee status or further perform any services authorized for a trainee if she or he fails either the written or the practical examination twice; but, a trainee may continue to function as a trainee until she or he has received the results of the examinations. Any applicant who has failed an examination twice and is no longer functioning as a trainee shall be eligible for reexamination as provided in s. ~~484.045(2)~~ ~~484.045(2)~~ and ~~(3)~~.

Reviser's note.—Amended to conform to the repeal of s. 484.045(3) by s. 58, ch. 99-5, Laws of Florida.

Section 7. Subsection (2) of section 484.053, Florida Statutes, is amended to read:

484.053 Prohibitions; penalties.—

(2) Any person who violates any of the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 8. Section 487.011, Florida Statutes, is amended to read:

487.011 Short title; administration.—This ~~chapter part~~ may be cited as the “Florida Pesticide Law” and shall be administered by the Department of Agriculture and Consumer Services.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 9. Section 487.012, Florida Statutes, is amended to read:

487.012 Declaration of purpose.—The purpose of this ~~chapter part~~ is to regulate the distribution, sale, and use of pesticides, except as provided in chapters 388 and 482, and to protect people and the environment from the adverse effects of pesticides.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 10. Section 487.021, Florida Statutes, is amended to read:

487.021 Definitions.—For the purpose of this ~~chapter part~~:

(1) “Acceptable release rate” means a measured release rate not exceeding 4.0 micrograms per square centimeter per day at steady state conditions as determined in accordance with a United States Environmental Protection Agency testing data call-in notice of July 29, 1986, on tributyltin in antifouling paints under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. s. 136, or at a rate established by the department.

(2) “Active ingredient” means:

(a) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests.

(b) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation.

tion, or otherwise alter the behavior, of ornamental or crop plants or the produce thereof.

(c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.

(d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(3) "Added ingredient" means any plant nutrient or plant regulator added to the mixture which is not an active pesticidal ingredient, but which the manufacturer wishes to show on the label.

(4) "Adulterated" applies to any pesticide if its strength or purity falls below or is in excess of the professed standard of quality as expressed on labeling or under which it is sold, if any substance has been substituted wholly or in part for the pesticide or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(5) "Advertisement" means all representations disseminated in any manner or by any means other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of pesticides.

(6) "Age of majority" means any natural person 18 years of age or older, or an emancipated minor.

(7) "Aircraft" means any machine designed for flight and for use in applying pesticides.

(8) "Animal" means all vertebrate and invertebrate species, including, but not limited to, humans and other mammals, birds, fish, and shellfish.

(9) "Antidote" means the most practical immediate treatment for poisoning and includes first aid treatment.

(10) "Antifouling paint" means a coating, paint, or treatment that is intended for use as a pesticide, as defined in this section, to control freshwater or marine fouling organisms.

(11) "Antisiphon device" means a safety device used to prevent the backflow of a mixture of water and chemicals into the water supply.

(12) "Batch" or "lot" means a quantity of pesticide produced or packaged and readily identified by numbers, letters, or other symbols.

(13) "Brand" means the name, number, trademark, or any other designation which distinguishes one pesticide product from another.

(14) "Certification" means the recognition by the department that an individual is a competent pesticide applicator and, thus, is eligible for licensure in one or more of the designated license types and categories.

(15) "Certified applicator" means any individual who has been recognized by the department as a competent pesticide applicator and, thus, is

eligible to apply for licensure in one or more of the designated license types and categories.

(16) “Commercial applicator” means an individual who has reached the age of majority and is licensed by the department to use or supervise the use of any restricted-use pesticide for any purpose on any property other than as provided by the definitions of “private applicator,” “product specific applicator,” or “public applicator,” whether or not the individual is a private applicator with respect to some uses.

(17) “Dealer” means any person, other than the manufacturer or distributor, who offers for sale, sells, barter, or otherwise supplies pesticides to the ultimate user or consumer.

(18) “Deficiency” means the amount of an active ingredient of a pesticide by which it fails to come up to its guaranteed analysis when analyzed.

(19) “Defoliant” means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(20) “Department” means the Department of Agriculture and Consumer Services or its authorized representative.

(21) “Desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(22) “Device” means any instrument or contrivance (other than a fire-arm) which is intended for trapping, destroying, repelling, or mitigating, any pest or other form of plant or animal life (other than human and other than bacteria, virus, or other microorganism on or in living humans or other living animals); but not including equipment used for the application of pesticides when sold separately.

(23) “Distribute” means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

(24) “Distributor” means any person who offers for sale, holds for sale, sells, barter, or supplies pesticides in this state.

(25) “Emergency exemption” means an exemption as authorized in s. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

(26) “Environment” means all water, air, land, plants, and animals, and their relationships with one another.

(27) “Equipment” means any type of ground, aquatic, or aerial device used to apply any pesticide on land, and on anything that may be growing, habituating, or stored on or in the land. Equipment does not include any pressurized hand-size household device used to apply any pesticide, or any other device where the person applying the pesticide is the source of power for applying the pesticide.

(28) “Excess” means the amount of an active ingredient of a pesticide found by analysis to be over the guaranteed amount.

(29) “Experimental use permit” means a permit issued by the department or by the United States Environmental Protection Agency as authorized in s. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act.

(30) “Fungi” means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts), as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living humans or other animals.

(31) “Highly toxic” means any highly poisonous pesticide as determined by the rules promulgated pursuant to this chapter ~~part~~.

(32) “Imminent hazard” means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered.

(33) “Ineffective” means that pesticides such as bacteriostats, disinfectants, germicides, sanitizers, and like products fail to meet microbiological claims when tested in the laboratory utilizing the officially approved procedures of the Association of Official Analytical Chemists or other methods or procedures as the department may find necessary.

(34) “Inert ingredient” means an ingredient which is not an active ingredient.

(35) “Ingredient statement” means a statement of the name and percentage by weight of each active ingredient, together with the total percentage of the inert ingredients in the pesticides.

(36) “Insect” means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six legs, usually in winged form (as, for example, beetles, bugs, bees, and flies) and to other allied classes and arthropods whose members are wingless and usually have more than six legs (as, for example, spiders, mites, ticks, centipedes, and wood lice).

(37) “Irrigation system” means any device or combination of devices having a hose, pipe, or other conduit which connects directly to any source of ground or surface water, through which device or combination of devices water or a mixture of water and chemicals is drawn and applied for agricultural purposes. The term does not include any handheld hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

(38) “Label” means the written, printed, or graphic matter on or attached to a pesticide, device, or immediate and outside container or wrappers of such pesticide or device.

(39) “Labeling” means all labels and other written, printed, or graphic matter referencing the pesticide or device or upon any of its containers or wrappers, or accompanying the pesticide or device at any time, but does not include accurate, nonmisleading reference to current official publications of the United States Departments of Agriculture or Interior, the Environmental Protection Agency, the United States Public Health Service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(40) “Land” means all land and water areas, including airspace.

(41) “Licensed applicator” means an individual who has reached the age of majority and is authorized by license from the department to use or supervise the use of any restricted-use pesticide covered by the license.

(42) “Manufacturer” means a person engaged in the business of importing, producing, preparing, mixing, formulating, or reformulating pesticides for the purpose of distribution.

(43) “Mixer-loader” means any individual who handles open containers or otherwise prepares, processes, or dilutes pesticides in preparation for final application.

(44) “Nematode” means invertebrate animals of the phylum Nematelminthes and class Nematoda (that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle and inhabiting soil, water, plants, or plant parts), and may also be known as nemas or eelworms.

(45) “Official sample” means any sample of a pesticide taken by the department in accordance with the provisions of this chapter part or rules adopted under this chapter part, and designated as official by the department.

(46) “Organotin compound” means any compound of tin used as a biocide in an antifouling paint.

(47) “Percent” means one one-hundredth part by weight or volume.

(48) “Pest” means:

(a) Any insect, rodent, nematode, fungus, weed; or

(b) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living humans or other living animals, which is declared to be a pest by the administrator of the United States Environmental Protection Agency or which may be declared to be a pest by the department by rule.

(49) “Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the department by rule declares to be a pest, and any substance or

mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not include any article that:

(a) Is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection.

(50) “Plant nutrient” means any ingredient that furnishes nourishment to the plant or promotes its growth in a normal manner.

(51) “Plant regulator” means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or maturation, or for otherwise altering the behavior, of ornamental or crop plants or the produce thereof; but does not include substances intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(52) “Private applicator” means an individual who has reached the age of majority and is licensed by the department to use or supervise the use of any restricted-use pesticide for purposes of producing any agricultural commodity on property owned or rented by his or her employer, or, if applied without compensation other than the trading of personal services between producers of agricultural commodities, on the property of another person.

(53) “Product” means a unique pesticide and label as distinguished by its individually assigned United States Environmental Protection Agency registration number, special local need registration number, or experimental use permit number.

(54) “Protect health and the environment” means protection against any unreasonable adverse effects on people or the environment.

(55) “Public applicator” means an individual who has reached the age of majority and is licensed by the department to use or supervise the use of restricted-use pesticides as an employee of a state agency, municipal corporation, or other governmental agency.

(56) “Product specific applicator” means an individual who has reached the age of majority and is licensed by the department to use or supervise the use of a particular restricted-use pesticide product that is identified on the license by the United States Environmental Protection Agency registration number, as well as any Florida special local need registration number and any specific identifying information as deemed appropriate for nonfederally registered products exempt under s. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, provided that the restricted-use pesticide product is used for the purpose of producing agricultural commodities on property

owned or rented by the licensee or the licensee's employer, or is applied on the property of another person without compensation other than trading of personal services between producers of agricultural commodities.

(57) "Registrant" means the person registering any pesticide pursuant to the provisions of this chapter part.

(58) "Restricted-use pesticide" means a pesticide which, when applied in accordance with its directions for use, warnings, and cautions and for uses for which it is registered or for one or more such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, or injury to the applicator or other persons, and which has been classified as a restricted-use pesticide by the department or the administrator of the United States Environmental Protection Agency.

(59) "Sell or sale" includes exchanges.

(60) "Special local need registration" means a state registration issued by the department as authorized in s. 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(61) "Special review" is a process for reviewing selected pesticides based upon information that the pesticides have been found to present environmental or health concerns not considered in the registration process or that data submitted in support of registration are inadequate or outdated.

(62) "Tolerance" means the deviation from the guaranteed analysis permitted by law.

(63) "Transportation of pesticides in bulk" means the movement of a pesticide which is held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight.

(64) "Under the direct supervision of a licensed applicator" means, unless otherwise prescribed by its labeling, a pesticide that must be applied by a competent person acting under the instruction and control of a licensed applicator who is available if and when needed, even though the licensed applicator is not physically present when the pesticide is applied.

(65) "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(66) "Vessel" means any type of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(67) "Weed" means any plant which grows where not wanted.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 11. Paragraph (f) of subsection (2) of section 487.025, Florida Statutes, is amended to read:

487.025 Misbranding.—

(2) A pesticide is misbranded if:

(f) Any word, statement, or other information required by or under authority of this chapter part to appear on the labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 12. Subsections (2), (4), and (5) and paragraphs (g), (h), (l), (n), (p), (q), and (r) of subsection (13) of section 487.031, Florida Statutes, are amended to read:

487.031 Prohibited acts.—It is unlawful:

(2) To distribute, sell, or offer for sale within this state any pesticide or product which has not been registered pursuant to the provisions of this chapter part, except pesticides distributed, sold, offered for sale, or used in accordance with the provisions of federal or state restriction, supervision, or cancellation orders or other existing stock agreements.

(4) To detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this chapter part or rules promulgated under this chapter part, or to add any substance to, or take any substance from, any pesticide in a manner that may defeat the purpose of this chapter part.

(5) For any person to use for his or her own advantage or to reveal any information relative to formulas of products acquired by authority of this chapter part, other than to: the department, proper officials, or employees of the state; the courts of this state in response to a subpoena; physicians, pharmacists, and other qualified persons, in an emergency, for use in the preparation of antidotes. The information relative to formulas of products is confidential and exempt from the provisions of s. 119.07(1).

(13) For any person to:

(g) Refuse or, after notice, neglect to comply with the provisions of this chapter part, the rules adopted under this chapter part, or any lawful order of the department;

(h) Refuse or neglect to keep and maintain the records required by this chapter part or to submit reports when and as required;

(l) Aid or abet a licensed or unlicensed person to evade the provisions of this ~~chapter part~~, or combine or conspire with a licensed or unlicensed person to evade the provisions of this ~~chapter part~~, or allow a license to be used by an unlicensed person;

(n) Make false or misleading statements, or fail to report, pursuant to this ~~chapter part~~, any suspected or known damage to property or illness or injury to persons caused by the application of pesticides;

(p) Fail to maintain a current liability insurance policy or surety bond as provided for in this ~~chapter part~~;

(q) Fail to adequately train, as provided for in this ~~chapter part~~, unlicensed applicators or mixer-loaders applying restricted-use pesticides under the direct supervision of a licensed applicator; or

(r) Fail to provide authorized representatives of the department with records required by this ~~chapter part~~ or with free access for inspection and sampling of any pesticide, areas treated with or impacted by these materials, and equipment used in their application.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 13. Subsections (2), (3), and (8) of section 487.041, Florida Statutes, are amended to read:

487.041 Registration.—

(2) For the purpose of defraying expenses of the department in connection with carrying out the provisions of this ~~chapter part~~, each person shall pay an annual registration fee of \$225 for each registered pesticide. The annual registration fee for each special local need label and experimental use permit shall be \$100. All registrations expire on December 31 of each year. Nothing in this section shall be construed as applying to distributors or retail dealers selling pesticides when such pesticides are registered by another person.

(3) The department shall adopt rules governing the procedures for pesticide registration and for the review of data submitted by an applicant for registration of a pesticide. The department shall determine whether a pesticide should be registered, registered with conditions, or tested under field conditions in this state. The department shall determine that all requests for pesticide registrations meet the requirements of current state and federal law. The department, whenever it deems it necessary in the administration of this ~~chapter part~~, may require the manufacturer or registrant to submit the complete formula, quantities shipped into or manufactured in the state for distribution and sale, evidence of the efficacy and the safety of any pesticide, and other relevant data. The department, for reasons of adulteration, misbranding, or other good cause, may refuse or revoke the registration of any pesticide, after notice to the applicant or registrant giving the

reason for the decision. The applicant may then request a hearing, pursuant to chapter 120, on the intention of the department to refuse or revoke registration, and, upon his or her failure to do so, the refusal or revocation shall become final without further procedure. In no event shall registration of a pesticide be construed as a defense for the commission of any offense prohibited under this chapter part.

(8) Nothing in this section affects the authority of the department to administer the pesticide registration program under this chapter part or the authority of the Commissioner of Agriculture to approve the registration of a pesticide.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 14. Section 487.0435, Florida Statutes, is amended to read:

487.0435 License classification.—The department shall issue certified applicator licenses in the following classifications: certified public applicator; certified private applicator; and certified commercial applicator. In addition, separate classifications and subclassifications may be specified by the department in rule as deemed necessary to carry out the provisions of this chapter part. Each classification shall be subject to requirements or testing procedures to be set forth by rule of the department and shall be restricted to the activities within the scope of the respective classification as established in statute or by rule. In specifying classifications, the department may consider, but is not limited to, the following:

- (1) Whether the license sought is for commercial, public, or private applicator status.
- (2) The method of applying the restricted-use pesticide.
- (3) The specific crops upon which restricted-use pesticides are applied.
- (4) The proximity of populated areas to the land upon which restricted-use pesticides are applied.
- (5) The acreage under the control of the licensee.
- (6) The pounds of technical restricted toxicant applied per acre per year by the licensee.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 15. Section 487.045, Florida Statutes, is amended to read:

487.045 Fees.—

(1) The department shall establish applicable fees by rule. The fees shall not exceed \$250 for commercial applicators or \$100 for private applicators and public applicators, for initial licensing and for each subsequent license renewal. The fees shall be determined annually and shall represent department costs associated with enforcement of the provisions of this chapter part.

(2) Fees collected under the provisions of this chapter part shall be deposited into the General Inspection Trust Fund and shall be used to defray expenses in the administration of this chapter.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 16. Subsection (2) of section 487.046, Florida Statutes, is amended to read:

487.046 Application; licensure.—

(2) If the department finds the applicant qualified in the classification for which the applicant has applied, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Agency and the Department of Transportation of this state to operate the equipment described in the application and has shown proof of liability insurance or posted a surety bond in an amount to be set forth by rule of the department, the department shall issue a certified applicator's license, limited to the classifications for which the applicant is qualified. The license shall expire as required by rules promulgated under this chapter part, unless it has been revoked or suspended by the department prior to expiration, for cause as provided in this chapter part. The license or authorization card issued by the department verifying licensure shall be kept on the person of the licensee while performing work as a licensed applicator.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 17. Section 487.047, Florida Statutes, is amended to read:

487.047 Nonresident license; reciprocal agreement; authorized purchase.—

(1) The department may waive all or part of the examination requirements provided for in this chapter part on a reciprocal basis with any other state or agency, or an Indian tribe, that has substantially the same or better standards.

(2) Any nonresident applying for a license under this chapter part to operate in the state shall file a Designation of Registered Agent naming the

Secretary of State as the agent of the nonresident, upon whom process may be served in the event of any suit against the nonresident. The designation shall be prepared on a form provided by the department and shall render effective the jurisdiction of the courts of this state over the nonresident applicant. However, any nonresident who has a duly appointed registered agent upon whom process may be served as provided by law shall not be required to designate the Secretary of State as registered agent. The Secretary of State shall be allowed the registered-agent fees as provided by law for designating registered agents. The department shall be furnished with a copy of the designation of the Secretary of State or of a registered agent which is certified by the Secretary of State. The Secretary of State shall notify the department of any service of process it receives as registered agent for persons licensed under this chapter part.

(3) Restricted-use pesticides may be purchased by any person who holds a valid applicator's license or who holds a valid purchase authorization card issued by the department or by a licensee under chapter 482 or chapter 388. A nonlicensed person may apply restricted-use pesticides under the direct supervision of a licensed applicator. An applicator's license shall be issued by the department on a form supplied by it in accordance with the requirements of this chapter part.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 18. Subsection (1) of section 487.048, Florida Statutes, is amended to read:

487.048 Dealer's license; records.—

(1) Each person holding or offering for sale, selling, or distributing restricted-use pesticides shall obtain a dealer's license from the department. Application for the license shall be made on a form prescribed by the department. The license must be obtained before entering into business or transferring ownership of a business. The department may require examination or other proof of competency of individuals to whom licenses are issued or of individuals employed by persons to whom licenses are issued. Demonstration of continued competency may be required for license renewal, as set by rule. The license shall be renewed annually as provided by rule. An annual license fee not exceeding \$250 shall be established by rule. However, a user of a restricted-use pesticide may distribute unopened containers of a properly labeled pesticide to another user who is legally entitled to use that restricted-use pesticide without obtaining a pesticide dealer's license. The exclusive purpose of distribution of the restricted-use pesticide is to keep it from becoming a hazardous waste as defined in s. ~~403.703(21)~~ 403.703(23).

Reviser's note.—Amended to conform to the redesignation of s. 403.703(23) as s. 403.703(21) necessitated by the repeal of s. 403.703(18) and (19) by s. 8, ch. 93-207, Laws of Florida.

Section 19. Subsection (1) of section 487.049, Florida Statutes, is amended to read:

487.049 Renewal; late fee; recertification.—

(1) The department shall require renewal of a certified applicator's license at 4-year intervals from the date of issuance. If the application for renewal of any license provided for in this chapter part is not filed on time, a late fee shall be assessed not to exceed \$50. However, the penalty shall not apply if the renewal application is filed within 60 days after the renewal date, provided the applicant furnishes an affidavit certifying that he or she has not engaged in business subsequent to the expiration of the license for a period not exceeding 60 days. A license may be renewed without taking another examination unless the department determines that new knowledge related to the classification for which the applicant has applied makes a new examination necessary; however, the department may require the applicant to provide evidence of continued competency, as determined by rule. If the license is not renewed within 60 days of the expiration date, then the licensee may again be required to take another examination, unless there is some unavoidable circumstance which results in the delay of the renewal of any license issued under this chapter part which was not under the applicant's control.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 20. Paragraph (b) of subsection (1) and subsection (2) of section 487.051, Florida Statutes, are amended to read:

487.051 Administration; rules; procedure.—

(1) The department may by rule:

(b) Establish procedures for the taking and handling of samples and establish tolerances and deficiencies where not specifically provided for in this chapter part; assess penalties; and prohibit the sale or use of pesticides or devices shown to be detrimental to human beings, the environment, or agriculture or to be otherwise of questionable value.

(2) The department is authorized to adopt by rule the primary standards established by the United States Environmental Protection Agency with respect to pesticides. If the provisions of this chapter part are preempted in part by federal law, those provisions not preempted shall apply. This chapter part is intended as comprehensive and exclusive regulation of pesticides in this state. Except as provided in chapters 373, 376, 388, 403, and 482, or as otherwise provided by law, no agency, commission, department, county, municipality, or other political subdivision of the state may adopt laws, regulations, rules, or policies pertaining to pesticides, including their registration, packaging, labeling, distribution, sale, or use, except that local jurisdictions may adopt or enforce an ordinance pertaining to pesticides if that ordinance is in the area of occupational license taxes, building and zoning

regulations, disposal or spillage of pesticides within a water well zone, or pesticide safety regulations relating to containment at the storage site.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 21. Subsection (4) of section 487.0615, Florida Statutes, is amended to read:

487.0615 Pesticide Review Council.—

(4) The council is defined as a “substantially interested person” and has standing under chapter 120 in any proceeding conducted by the department relating to the registration of a pesticide under this chapter part. The standing of the council shall in no way prevent individual members of the council from exercising standing in these matters.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 22. Subsections (1), (2), (3), (4), and (6) and paragraphs (a) and (e) of subsection (7) of section 487.071, Florida Statutes, are amended to read:

487.071 Enforcement, inspection, sampling, and analysis.—

(1) The department is authorized to enter upon any public or private premises or carrier where pesticides are known or thought to be distributed, sold, offered for sale, held, stored, or applied, during regular business hours in the performance of its duties relating to pesticides and records pertaining to pesticides. No person shall deny or refuse access to the department when it seeks to enter upon any public or private premises or carrier during business hours in performance of its duties under this chapter part.

(2) The department is authorized and directed to sample, test, inspect, and make analyses of pesticides sold, offered for sale, distributed, or used within this state, at a time and place and to such an extent as it may deem necessary, to determine whether the pesticides or persons exercising control over the pesticides are in compliance with the provisions of this chapter part, the rules adopted under this chapter part, and the provisions of the pesticide label or labeling.

(3) The official analysis shall be made from the official sample. A sealed and identified sample, herein called “official check sample” shall be kept until the analysis on the official sample is completed. However, the registrant may obtain upon request a portion of the official sample. Upon completion of the analysis of the official sample, a true copy of the certificate of analysis shall be mailed to the registrant of the pesticide from whom the official sample was taken and also to the dealer or agent, if any, and consumer, if known. If the official analysis conforms with the provisions of this

chapter part, the official check sample may be destroyed. If the official analysis does not conform with the provisions of this chapter part, the rules adopted under this chapter part, and the provisions of the pesticide label or labeling, the official check sample shall be retained for a period of 90 days from the date of the certificate of analysis of the official sample. If within that time the registrant of the pesticide from whom the official sample was taken makes demand for analysis by a referee chemist, a portion of the official check sample sufficient for analysis shall be sent to a referee chemist who is mutually acceptable to the department and the registrant for analysis at the expense of the registrant. Upon completion of the analysis, the referee chemist shall forward to the department and to the registrant a certificate of analysis bearing a proper identification mark or number; and such certificate of analysis shall be verified by an affidavit of the person or laboratory making the analysis. If the certificate of analysis checks within 3 percent of the department's analysis on each active ingredient for which analysis was made, the mean average of the two analyses shall be accepted as final and binding on all concerned. However, if the referee's certificate of analysis shows a variation of greater than 3 percent from the department's analysis in any one or more of the active ingredients for which an analysis was made, upon demand of either the department or the registrant from whom the official sample was taken, a portion of the official check sample sufficient for analysis shall be submitted to a second referee chemist who is mutually acceptable to the department and the registrant, at the expense of the party or parties requesting the referee analysis. Upon completion of the analysis, the second referee chemist shall make a certificate and report as provided in this subsection for the first referee chemist. The mean average of the two analyses nearest in conformity shall be accepted as final and binding on all concerned. If no demand is made for an analysis by a second referee chemist, the department's certificate of analysis shall be accepted as final and binding on all concerned.

(4) If a pesticide or device fails to comply with the provisions of this chapter part with reference to the ingredient statement reflecting the composition of the product, as required on the registration and labeling, and the department contemplates possible criminal proceedings against the person responsible because of this violation, the department shall, after due notice, accord the person an informal hearing or an opportunity to present evidence and opinions, either orally or in writing, with regard to such contemplated proceedings. If in the opinion of the department the facts warrant, the department may refer the facts to the state attorney for the county in which the violation occurred, with a copy of the results of the analysis or the examination of such article; provided that nothing in this chapter part shall be construed as requiring the department to report for prosecution minor violations whenever it believes that the public interest will be subserved by a suitable notice of warning in writing.

(6) The department shall, by publication in such manner as it may prescribe, give notice of all judgments entered in actions instituted under the authority of this chapter part.

(7)(a) The department may analyze pesticide samples upon request in a manner consistent with this chapter part.

(e) In addition to any other penalty provided by this chapter part, the registrant of any pesticide found to be adulterated, misbranded, or otherwise deficient shall reimburse the person requesting the pesticide analysis under this subsection for all fees assessed by and paid to the department.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 23. Subsections (2), (3), and (4) of section 487.081, Florida Statutes, are amended to read:

487.081 Exemptions.—

(2) No article shall be deemed in violation of this chapter part when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser.

(3) Notwithstanding any other provision of this chapter part, registration required under this chapter part is not required in the case of a pesticide stored or shipped from one manufacturing plant within this state to another manufacturing plant within this state operated by the same person.

(4) Nothing in this chapter part shall be construed to apply to persons duly licensed or certified under chapter 388 or chapter 482 performing any pest control or other operation for which they are licensed or certified under those chapters.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 24. Subsection (2) of section 487.091, Florida Statutes, is amended to read:

487.091 Tolerances, deficiencies, and penalties.—

(2) If a pesticide is found by analysis to be deficient in an active ingredient beyond the tolerance as provided in this chapter part, the registrant is subject to a penalty for the deficiency, not to exceed \$10,000 per violation. However, no penalty shall be assessed when the official sample was taken from a pesticide that was in the possession of a consumer for more than 45 days from the date of purchase by that consumer, or when the product label specifies that the product should be used by an expiration date that has passed. Procedures for assessing penalties shall be established by rule, based on the degree of the deficiency. Penalties assessed shall be paid to the consumer or, in the absence of a known consumer, the department. If the penalty is not paid within the prescribed period of time as established by rule, the department may deny, suspend, or revoke the registration of any pesticide.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 25. Section 487.101, Florida Statutes, is amended to read:

487.101 Stop-sale, stop-use, removal, or hold orders.—

(1) When a pesticide or device is being offered or exposed for sale, used, or held in violation of any of the provisions of this ~~chapter part~~, the department may issue and enforce a stop-sale, stop-use, removal, or hold order, in writing, to the owner or custodian of the pesticide or device, ordering that the pesticide or device be held at a designated place until the ~~chapter part~~ has been complied with and the pesticide or device is released, in writing, by the department or the violation has been disposed of by court order.

(2) The written notice is warning to all persons, including, but not limited to, the owner or custodian of the pesticide or the owner's or custodian's agents or employees, to scrupulously refrain from moving, bothering, altering, or interfering with the pesticide or device or from altering, defacing, or in any way interfering with the written notice or permitting the same to be done. The willful violation of these provisions is a misdemeanor, subjecting the violator to the penalty provisions of this ~~chapter part~~.

(3) The department shall release the pesticide or device under a stop-sale, stop-use, removal, or hold order when the owner or custodian complies with the provisions of this ~~chapter part~~.

(4) The owner or custodian, with authorization and supervision of the department, may relabel the pesticide or device so that the label will conform to the product, or transfer and return the product to the manufacturer or supplier for the purpose of bringing the product in compliance with the provisions of this ~~chapter part~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 26. Subsection (1) of section 487.111, Florida Statutes, is amended to read:

487.111 Seizure, condemnation, and sale.—

(1) Any lot of pesticide or device not in compliance with the provisions of this ~~chapter part~~ is subject to seizure on complaint of the department to the circuit court in the county in which the pesticide or device is located. In the event the court finds the pesticide or device in violation of this ~~chapter part~~ and orders it condemned, it shall be disposed of as the court may direct; provided that in no instance shall the disposition of the pesticide or device be ordered by the court without first giving the owner or custodian an opportunity to apply to the court for release of the pesticide or device or for

permission to process or relabel it to bring it into compliance with this chapter part.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 27. Section 487.13, Florida Statutes, is amended to read:

487.13 Cooperation.—The department is authorized and empowered to cooperate with and enter into agreements with any other agency of this state, the United States Department of Agriculture, the United States Environmental Protection Agency, and any other state or federal agency for the purpose of carrying out the provisions of this chapter part and securing uniformity of regulations.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 28. Section 487.156, Florida Statutes, is amended to read:

487.156 Governmental agencies.—All governmental agencies shall be subject to the provisions of this chapter and rules adopted under this chapter part. Public applicators using or supervising the use of restricted-use pesticides shall be subject to examination as provided in s. 487.044.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 29. Subsection (1) of section 487.159, Florida Statutes, is amended to read:

487.159 Damage or injury to property, animal, or person; mandatory report of damage or injury; time for filing; failure to file.—

(1) The person claiming damage or injury to property, animal, or human beings from application of a pesticide shall file with the department a written statement claiming damages, on a form prescribed by the department, within 48 hours after the damage or injury becomes apparent. The statement shall contain, but shall not be limited to, the name of the person responsible for the application of the pesticide, the name of the owner or lessee of the land on which the crop is grown and for which the damages are claimed, and the date on which it is alleged that the damages occurred. The department shall investigate the alleged damages and notify all concerned parties of its findings. If the findings reveal a violation of the provisions of this chapter part, the department shall determine an appropriate penalty, as provided in this chapter part. The filing of a statement or the failure to file such a statement need not be alleged in any complaint which might be

filed in a court of law, and the failure to file the statement shall not be considered any bar to the maintenance of any criminal or civil action.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 30. Section 487.161, Florida Statutes, is amended to read:

487.161 Exemptions, nonagricultural pest control and research.—

(1) Any person duly licensed or certified under chapter 482, or under the supervision of chapter 388, is exempted from the licensing provisions of this chapter part.

(2) The use of the antibiotic oxytetracycline hydrochloride for the purpose of controlling lethal yellowing is exempted from the licensing provisions of this chapter part.

(3) The personnel of governmental, university, or industrial research agencies are exempted from the provisions of this chapter part when doing applied research within a laboratory, but shall comply with all the provisions of this chapter part when applying restricted-use pesticides to experimental or demonstration plots.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 31. Section 487.163, Florida Statutes, is amended to read:

487.163 Information; interagency cooperation.—

(1) The department may, in cooperation with the University of Florida or other agencies of government, publish information and conduct short courses of instruction in the safe use and application of pesticides for the purpose of carrying out the provisions of this chapter part.

(2) The department may cooperate or enter into formal agreements with any other agency or educational institution of this state or its subdivisions or with any agency of any other state or of the Federal Government for the purpose of carrying out the provisions of this chapter part and of securing uniformity of regulations.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 32. Subsections (1), (2), and (3) of section 487.171, Florida Statutes, are amended to read:

487.171 Classification of antifouling paint containing organotin compounds as restricted-use pesticides; prohibition of distribution and sale.—

(1) The department shall classify antifouling paints containing organotin compounds having an acceptable release rate as restricted-use pesticides subject to the requirements of this chapter part. Antifouling paints containing organotin having acceptable release rates and sold in spray cans of 16 ounces avoirdupois weight or less for outboard motor or lower unit use are exempt from the restricted-use pesticide classification requirement.

(2) The department shall initiate action under chapter 120, to deny or cancel the registration of antifouling paints containing organotin compounds which do not have an acceptable release rate or do not meet other criteria established by the department in accordance with this chapter part.

(3) Distribution, sale, and use of antifouling paints containing organotin compounds with acceptable release rates shall be limited to dealers and applicators licensed by the department in accordance with this chapter part, to distribute, sell, or use restricted-use pesticides. Such paint may be applied only by licensed applicators and may be applied only to vessels which exceed 25 meters in length or which have aluminum hulls.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 33. Section 487.175, Florida Statutes, is amended to read:

487.175 Penalties; administrative fine; injunction.—

(1) In addition to any other penalty provided in this chapter part, when the department finds any person, applicant, or licensee has violated any provision of this chapter part or rule adopted under this chapter part, it may enter an order imposing any one or more of the following penalties:

- (a) Denial of an application for licensure.
- (b) Revocation or suspension of a license.
- (c) Issuance of a warning letter.

(d) Placement of the licensee on probation for a specified period of time and subject to conditions the department may specify by rule, including requiring the licensee to attend continuing education courses, to demonstrate competency through a written or practical examination, or to work under the direct supervision of another licensee.

(e) Imposition of an administrative fine not to exceed \$10,000 for each violation. When imposing any fine under this paragraph, the department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator benefited from by noncompliance, whether the violation was committed willfully, and the compliance record of the violator.

(2) Any person who violates any provision of this chapter part or rules adopted pursuant thereto commits a misdemeanor of the second degree and upon conviction is punishable as provided in ss. 775.082 and 775.083. For a subsequent violation, such person commits a misdemeanor of the first degree and upon conviction is punishable as provided in ss. 775.082 and 775.083.

(3) In addition to the remedies provided in this chapter part and notwithstanding the existence of any adequate remedy at law, the department may bring an action to enjoin the violation or threatened violation of any provision of this chapter part, or rule adopted under this chapter part, in the circuit court of the county in which the violation occurred or is about to occur. Upon the department's presentation of competent and substantial evidence to the court of the violation or threatened violation, the court shall immediately issue the temporary or permanent injunction sought by the department. The injunction shall be issued without bond. A single act in violation of any provision of this chapter part shall be sufficient to authorize the issuance of an injunction.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Chapter 487 was formerly divided into two parts. Sections comprising former part II of the chapter were repealed by s. 21, ch. 99-4, Laws of Florida.

Section 34. Subsection (5) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(5) Public utilities, including special gas districts as defined in chapter 189, telecommunications companies as defined in s. ~~364.02(12)~~ 364.02(7), and natural gas transmission companies as defined in s. 368.103(4), on construction, maintenance, and development work performed by their employees, which work, including, but not limited to, work on bridges, roads, streets, highways, or railroads, is incidental to their business. The board shall define, by rule, the term "incidental to their business" for purposes of this subsection.

Reviser's note.—Amended to conform to the redesignation of s. 364.02(7) as s. 364.02(12) by s. 6, ch. 95-403, Laws of Florida.

Section 35. Paragraph (a) of subsection (1) of section 489.1136, Florida Statutes, is amended to read:

489.1136 Medical gas certification.—

(1)(a) In addition to the certification or registration required to engage in business as a plumbing contractor, any plumbing contractor who wishes to engage in the business of installation, improvement, repair, or maintenance of any tubing, pipe, or similar conduit used to transport gaseous or partly gaseous substances for medical purposes shall take, as part of the contractor's continuing education requirement, at least once during the holding of such license, a course of at least of 6 hours. Such course shall be

given by an instructional facility or teaching entity that has been approved by the board. In order for a course to be approved, the board must find that the course is designed to teach familiarity with the National Fire Prevention Association Standard 99C (Standard on Gas and Vacuum Systems, latest edition) and also designed to teach familiarity and practical ability in performing and inspecting brazing duties required of medical gas installation, improvement, repair, or maintenance work. Such course shall issue a certificate of completion to the taker of the course, which certificate shall be available for inspection by any entity or person seeking to have such contractor engage in the business of installation, improvement, repair, or maintenance of a medical gas system.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 36. Subsection (10) of section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

(10) No municipal or county government may issue any certificate of competency or license for any contractor defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local government exercises disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in subsection (7). Each local board that licenses and disciplines contractors must have at least two consumer representatives on that board. If the board has seven or more members, at least three of those members must be consumer representatives. The consumer representative may be any resident of the local jurisdiction who ~~that~~ is not, and has never been, a member or practitioner of a profession regulated by the board or a member of any closely related profession.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 37. Subsection (6) of section 489.133, Florida Statutes, is amended to read:

489.133 Pollutant storage systems specialty contractors; definitions; certification; restrictions.—

(6) Any person who operates as a pollutant storage systems specialty contractor, precision tank tester, or internal pollutant storage tank lining applicator in violation of this section or any person who violates subsection ~~(5)~~ (6) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Reviser's note.—Amended to conform to the redesignation of former subsection (6) of s. 489.133 as subsection (5) by s. 30, ch. 93-166, Laws of Florida.

Section 38. Subsection (1) of section 489.140, Florida Statutes, is amended to read:

489.140 Construction Industries Recovery Fund.—There is created the Florida Construction Industries Recovery Fund as a separate account in the Professional Regulation Trust Fund.

(1) The Florida Construction Industries Recovery Fund shall be disbursed as provided in s. 489.143, on order of the board, as reimbursement to any natural person adjudged by a court of competent jurisdiction to have suffered monetary damages, or to whom the licensee has been ordered to pay restitution by the board, where the judgment or restitution order is based on a violation of s. ~~489.129(1)(g), (j), or (k)~~ 489.129(1)(d), (h), (k), or (l), committed by any contractor, financially responsible officer, or business organization licensed under the provisions of this part at the time the violation was committed, and providing that the violation occurs after July 1, 1993.

Reviser's note.—Amended to conform to the repeal of s. 489.129(1)(d) by s. 9, ch. 98-419, Laws of Florida, and the redesignation of s. 489.129(1)(h), (k), and (l) as s. 489.129(1)(g), (j), and (k) necessitated by the repeal of paragraph (1)(d).

Section 39. Paragraph (a) of subsection (1) of section 489.141, Florida Statutes, is amended to read:

489.141 Conditions for recovery; eligibility.—

(1) Any person is eligible to seek recovery from the Construction Industries Recovery Fund after having made a claim and exhausting the limits of any available bond, cash bond, surety, guarantee, warranty, letter of credit, or policy of insurance, if:

(a) Such person has received final judgment in a court of competent jurisdiction in this state in any action wherein the cause of action was based on a construction contract or the Construction Industry Licensing Board has issued a final order directing the licensee to pay restitution to the claimant based upon a violation of s. ~~489.129(1)(g), (j), or (k)~~ 489.129(1)(d), (h), (k), or (l), where the contract was executed and the violation occurred on or after July 1, 1993, and provided that:

1.a. Such person has caused to be issued a writ of execution upon such judgment, and the officer executing the writ has made a return showing that no personal or real property of the judgment debtor or licensee liable to be levied upon in satisfaction of the judgment can be found or that the amount realized on the sale of the judgment debtor's or licensee's property pursuant to such execution was insufficient to satisfy the judgment; or

b. If such person is unable to comply with sub-subparagraph a. for a valid reason to be determined by the board, such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor or licensee is possessed of real or personal property or other assets subject to being sold or applied in satisfaction of the judgment and by his or her search has discovered no property or assets or has discovered property and assets and has taken all necessary action and proceedings for the application thereof

to the judgment but the amount thereby realized was insufficient to satisfy the judgment; or

2. The claimant has made a diligent attempt, as defined by board rule, to collect the restitution awarded by the board;

Reviser's note.—Amended to conform to the repeal of s. 489.129(1)(d) by s. 9, ch. 98-419, Laws of Florida, and the redesignation of s. 489.129(1)(h), (k), and (l) as s. 489.129(1)(g), (j), and (k) necessitated by the repeal of paragraph (1)(d).

Section 40. Paragraph (i) of subsection (1) of section 489.531, Florida Statutes, is amended to read:

489.531 Prohibitions; penalties.—

(1) A person may not:

(i) Commence or perform work for which a building permit is required pursuant to part VII of chapter ~~553~~ 533 code without the building permit being in effect; or

Reviser's note.—Amended to correct an apparent error. Chapter 533, which relates to mining wastes, is not divided into parts, and part VII of chapter 553 relates to building permits. The word "code" is deleted to improve clarity and facilitate correct interpretation.

Section 41. Subsection (2) of section 494.0038, Florida Statutes, is amended to read:

494.0038 Mortgage broker disclosures.—

(2) At the time a written agreement is executed by the borrower or at the time the mortgage brokerage business accepts an application fee, credit report fee, property appraisal fee, or any other third-party fee, the mortgage brokerage business shall disclose in writing to any applicant for a mortgage loan the following information:

(a) That such mortgage brokerage business may not make mortgage loans or commitments. The mortgage brokerage business may make a commitment and may furnish a lock-in of the rate and program on behalf of the lender when the mortgage brokerage business has obtained a written commitment or lock-in for the loan from the lender on behalf of the borrower for the loan. The commitment must be in the same form and substance as issued by the lender.

(b) That such mortgage brokerage business cannot guarantee acceptance into any particular loan program or promise any specific loan terms or conditions.

(c) A good faith estimate of the credit report fee, property appraisal fee, or any other third-party fee and the terms and conditions for obtaining a refund of such fees, if any. Any amount collected in excess of the actual cost shall be returned within 60 days after rejection, withdrawal, or closing.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 42. Subsections (2) and (3) of section 497.255, Florida Statutes, are amended to read:

497.255 Standards for construction and significant alteration or renovation of mausoleums and columbaria.—

(2) The board shall adopt, by no later than July 1, 1999, rules establishing minimum standards for all newly constructed and significantly altered or renovated mausoleums and columbaria; however, in the case of significant alterations or renovations to existing structures, the rules shall apply only, when physically feasible, to the newly altered or renovated portion of such structures, except as specified in subsection (4). In developing and promulgating said rules, the board may define different classes of structures or construction standards, and may provide for different rules to apply to each of said classes, if the designation of classes and the application of different rules is in the public interest and is supported by findings by the board based on evidence of industry practices, economic and physical feasibility, location, or intended uses; provided, that the rules shall provide minimum standards applicable to all construction. For example, and without limiting the generality of the foregoing, the board may determine that a small single-story ground level mausoleum does not require the same level of construction standards that a large multistory mausoleum might require; or that a mausoleum located in a low-lying area subject to frequent flooding or hurricane threats might require different standards than one located on high ground in an area not subject to frequent severe weather threats. The board shall develop the rules in cooperation with, and with technical assistance from, the Florida Building Commission Board of Building Codes and Standards of the Department of Community Affairs, to ensure that the rules are in the proper form and content to be included as part of the State Minimum Building Codes under part VII of chapter 553. If the Florida Building Commission Board of Building Codes and Standards advises that some of the standards proposed by the board are not appropriate for inclusion in such building codes, the board may choose to include those standards in a distinct chapter of its rules entitled "Non-Building-Code Standards for Mausoleums" or "Additional Standards for Mausoleums," or other terminology to that effect. If the board elects to divide the standards into two or more chapters, all such rules shall be binding on licensees and others subject to the jurisdiction of the board, but only the chapter containing provisions appropriate for building codes shall be transmitted to the Florida Building Commission Board of Building Codes and Standards pursuant to subsection (3). Such rules may be in the form of standards for design and construction; methods, materials, and specifications for construction; or other mechanisms. Such rules shall encompass, at a minimum, the following standards:

(a) No structure may be built or significantly altered for use for interment, entombment, or inurnment purposes unless constructed of such material and workmanship as will ensure its durability and permanence, as well as the safety, convenience, comfort, and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science.

(b) Such structure must be so arranged that the exterior of any vault, niche, or crypt may be readily examined at any time by any person authorized by law to do so.

(c) Such structure must contain adequate provision for drainage and ventilation.

(d) Such structure must be of fire-resistant construction. Notwithstanding the requirements of s. 553.895 and chapter 633, any mausoleum or columbarium constructed of noncombustible materials, as defined in the Standard Building Code, shall not require a sprinkler system.

(e) Such structure must be resistant to hurricane and other storm damage to the highest degree provided under applicable building codes for buildings of that class.

(f) Suitable provisions must be made for securely and permanently sealing each crypt with durable materials after the interment or entombment of human remains, so that no effluvia or odors may escape therefrom except as provided by design and sanitary engineering standards. Panels for permanent seals must be solid and constructed of materials of sufficient weight, permanence, density, imperviousness, and strength as to ensure their durability and continued functioning. Permanent crypt sealing panels must be securely installed and set in with high quality fire-resistant, resilient, and durable materials after the interment or entombment of human remains. The outer or exposed covering of each crypt must be of a durable, permanent, fire-resistant material; however, plastic, fiberglass, and wood are not acceptable materials for such outer or exposed coverings.

(g) Interior and exterior fastenings for hangers, clips, doors, and other objects must be of copper, copper-base alloy, aluminum, or stainless steel of adequate gauges, or other materials established by rule which provide equivalent or better strength and durability, and must be properly installed.

(3) The board shall transmit the rules as adopted under subsection (2), hereinafter referred to as the "mausoleum standards," to the Florida Building Commission Board of Building Codes and Standards, which shall initiate rulemaking under chapter 120 to consider such mausoleum standards. If such mausoleum standards are not deemed acceptable, they shall be returned by the Florida Building Commission Board of Building Codes and Standards to the board with details of changes needed to make them acceptable. If such mausoleum standards are acceptable, the Florida Building Commission Board of Building Codes and Standards shall adopt a rule designating the mausoleum standards as an approved revision to the State Minimum Building Codes under part VII of chapter 553. When so designated by the Florida Building Commission Board of Building Codes and Standards, such mausoleum standards shall become a required element of the State Minimum Building Codes under s. 553.73(2) and shall be transmitted to each local enforcement agency, as defined in s. 553.71(5). Such local enforcement agency shall consider and inspect for compliance with such mausoleum standards as if they were part of the local building code, but shall have no continuing duty to inspect after final approval of the construction pursuant to the local building code. Any further amendments to the

mausoleum standards shall be accomplished by the same procedure. Such designated mausoleum standards, as from time to time amended, shall be a part of the State Minimum Building Codes under s. 553.73 until the adoption and effective date of a new statewide uniform minimum building code, which may supersede the mausoleum standards as provided by the law enacting the new statewide uniform minimum building code.

Reviser's note.—Amended to conform to the redesignation of the Board of Building Codes and Standards as the Florida Building Commission by s. 41, ch. 98-287, Laws of Florida.

Section 43. Subsection (12) of section 497.353, Florida Statutes, is amended to read:

497.353 Owners to provide addresses; presumption of abandonment; abandonment procedures; sale of abandoned unused burial rights.—

(12) No burial rights reacquired pursuant to this section by a cemetery may be included in determining available inventory of burial spaces or lots in the evaluation of need for new cemeteries pursuant to s. 497.201 ~~497.006~~.

Reviser's note.—Amended to conform to the redesignation of s. 497.006 as s. 497.201 by s. 59, ch. 93-399, Laws of Florida.

Section 44. Paragraph (b) of subsection (1) of section 501.022, Florida Statutes, is amended to read:

501.022 Home solicitation sale; permit required.—

(1)

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

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

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

3. Telephone solicitors, salespersons, or agents making calls which involve transactions that are unsolicited by the consumer and consummated by telephone and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services.

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

5. Minors, as defined in s. 1.01(13) ~~1.01(14)~~, conducting home solicitation sales under the supervision of an adult supervisor who holds a valid home solicitation sale permit. Minors excluded from operation of this section must,

however, carry personal identification which includes their full name, date of birth, residence address, and employer and the name and permit number of their adult supervisor.

6. Those sellers or their representatives that are currently regulated as to the sale of goods and services by chapter 470, chapter 475, or chapter 497.

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

Reviser's note.—Amended to conform to the redesignation of s. 1.01(14) as s. 1.01(13) necessitated by the repeal of s. 1.01(5) by s. 8, ch. 88-33, Laws of Florida.

Section 45. Subsection (2) of section 501.0575, Florida Statutes, is amended to read:

501.0575 Weight-Loss Consumer Bill of Rights.—

(2) The copies of the Weight-Loss Consumer Bill of Rights to be posted according to s. 501.0573(6) shall be printed in letters at least 24-point boldfaced type on one side of a sign. The palm-sized copies to be distributed according to s. 501.0573(5) shall be in boldfaced type and legible. Each weight-loss provider shall be responsible for producing and printing appropriate copies of the Weight-Loss Consumer Bill of Rights.

Reviser's note.—Amended to improve clarity.

Section 46. Subsection (3) of section 501.608, Florida Statutes, is amended to read:

501.608 License or affidavit of exemption; occupational license.—

(3) Failure to display a license or a copy of the affidavit of exemption is sufficient grounds for the department to issue an immediate cease and desist order, which shall act as an immediate final order under s. ~~120.569(2)(l)~~ 120.569(2)(n). The order may shall remain in effect until the commercial telephone seller or a person claiming to be exempt shows the authorities that he or she is licensed or exempt. The department may order the business to cease operations and shall order the phones to be shut off. Failure of a salesperson to display a license may result in the salesperson being summarily ordered by the department to leave the office until he or she can produce a license for the department.

Reviser's note.—Amended to conform to the redesignation of s. 120.569(2)(l) as s. 120.569(2)(n) by s. 4, ch. 98-200, Laws of Florida.

Section 47. Paragraph (f) of subsection (2) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

## (2) INSPECTION OF PREMISES.—

(f) In conducting inspections of establishments licensed under this chapter, the division shall determine if each coin-operated amusement machine that is operated on the premises of a licensed establishment is properly registered with the Department of Revenue. Each month the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed establishment that has on location a coin-operated amusement machine and that does not have an identifying certificate conspicuously displayed as required by s. ~~212.05(1)(i)~~ 212.05(1)(j).

Reviser's note.—Amended to conform to the redesignation of s. 212.05(1)(j) as s. 212.05(1)(i) necessitated by the repeal of s. 212.05(1)(g) by s. 20, ch. 97-94, Laws of Florida.

Section 48. Subsection (2) of section 509.302, Florida Statutes, is amended to read:

509.302 Director of education, personnel, employment duties, compensation.—

(2) The director of education shall develop and implement an educational program, designated the "Hospitality Education Program," offered for the benefit of the entire industry. This program may affiliate with Florida State University, Florida International University, and the University of Central Florida. The program may also affiliate with any other member of the State University System or Florida State Community College System, or with any privately funded college or university, which offers a program of hospitality administration and management. The primary goal of this program is to instruct and train all individuals and businesses licensed under this chapter, in cooperation with recognized associations that represent the licensees, in the application of state and federal laws and rules. Such programs shall also include:

- (a) Vocational training.
- (b) Management training.
- (c) Inservice continuing education programs.
- (d) Awareness of food-recovery programs, as promoted in s. 570.0725.
- (e) Such other programs as may be deemed appropriate by the director of the division, the advisory council, and the director of education.

Reviser's note.—Amended to conform to the redesignation of the State Community College System as the Florida Community College System by s. 15, ch. 98-58, Laws of Florida.

Section 49. Subsection (6) of section 514.031, Florida Statutes, is amended to read:

514.031 Permit necessary to operate public swimming pool or bathing place.—It is unlawful for any person or public body to operate or continue

to operate any public swimming pool or bathing place without a valid permit from the department, such permit to be obtained in the following manner:

(6) An owner or operator of a public swimming pool, including, but not limited to, a spa, wading, or special purpose pool, to which admittance is obtained by membership for a fee shall post in a prominent location within the facility the most recent pool inspection report issued by the department pertaining to the health and safety conditions of such facility. The report shall be legible and readily accessible to members or potential members. The department shall adopt rules to enforce this subsection ~~provision~~. A portable pool may not be used as a public pool.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. The word “subsection” was inserted by s. 48, ch. 98-151, Laws of Florida, but the previous existing reference to “provision” was not deleted.

Section 50. Paragraph (b) of subsection (12) of section 517.021, Florida Statutes, is amended to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(12)

(b) The term “investment adviser” does not include the following:

1. Any licensed practicing attorney whose performance of such services is solely incidental to the practice of her or his profession;

2. Any licensed certified public accountant whose performance of such services is solely incidental to the practice of her or his profession;

3. Any bank authorized to do business in this state;

4. Any bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state;

5. Any trust company having trust powers which it is authorized to exercise in the state, which trust company renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers;

6. Any person who renders investment advice exclusively to insurance or investment companies;

7. Any person who does not hold herself or himself out to the general public as an investment adviser and has no more than 15 clients within 12 consecutive months in this state;

8. Any person whose transactions in this state are limited to those transactions described in s. 222(d) of the Investment Advisers Act of 1940. Those clients listed in subparagraph ~~6.~~ 5. may not be included when determining the number of clients of an investment adviser for purposes of s. 222(d) of the Investment Advisers Act of 1940; or

9. A federal covered adviser.

Reviser's note.—Amended to conform to the redesignation of subparagraph 5. of s. 517.021(12)(b) as subparagraph 6. by s. 5, ch. 97-35, Laws of Florida.

Section 51. Subsection (3) of section 517.12, Florida Statutes, is amended to read:

517.12 Registration of dealers, associated persons, investment advisers, and branch offices.—

(3) Except as otherwise provided in s. ~~517.061(11)(a)4., (13), (16), (17), or (19)~~ 517.061(11)(a)4., (13), (16), (17), or (18), the registration requirements of this section do not apply in a transaction exempted by s. 517.061(1)-(12), (14), and (15).

Reviser's note.—Amended to conform to the redesignation of s. 517.061(18) as s. 517.061(19) by s. 2, ch. 96-338, Laws of Florida.

Section 52. Paragraph (b) of subsection (17) of section 539.001, Florida Statutes, is amended to read:

539.001 The Florida Pawnbroking Act.—

(17) CRIMINAL PENALTIES.—

(b) In addition to any other penalty, any person, who willfully violates this section or who willfully makes a false entry in any record specifically required by this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Clerical or recordkeeping errors, such as typographical errors or scrivener's errors, regarding any document or record required by this section do not constitute a willful violation of this section, and are not subject to criminal penalties. Clerical or recordkeeping errors are subject to the administrative remedies, as provided in this act.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 53. Subsection (1) of section 548.004, Florida Statutes, is amended to read:

548.004 Executive director; duties, compensation, administrative support.—

(1) The department shall employ an executive director with the approval of the commission. The executive director shall serve at the pleasure of the secretary. The executive director ~~secretary~~ shall keep a record of all proceedings of the commission; shall preserve all books, papers, and documents pertaining to the business of the commission; shall prepare any notices and papers required; shall appoint judges, referees, and other officials as delegated by the commission and pursuant to this chapter and rules of the commission; and shall perform such other duties as the department or com-

mission directs. The executive director may issue subpoenas and administer oaths.

Reviser's note.—Amended to conform to the context of the section, improve clarity, and facilitate correct interpretation.

Section 54. Subsection (2) of section 550.1625, Florida Statutes, is amended to read:

550.1625 Dogracing; taxes.—

(2) A permitholder that conducts a dograce meet under this chapter must pay the daily license fee, the admission tax, the breaks tax, and the tax on pari-mutuel handle as provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(6) ~~550.0951(7)~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 550.0951(7) does not exist, and subsection (6) relates to penalties.

Section 55. Paragraph (b) of subsection (7) and paragraph (b) of subsection (8) of section 550.2625, Florida Statutes, are amended to read:

550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.—

(7)

(b) The division shall deposit these collections to the credit of the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion Fund." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Appaloosa Racing Promotion Fund shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Appaloosas in this state; and such moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter, except that the moneys generated by Appaloosa registration fees received pursuant to s. 570.381 may be used as provided in paragraph ~~(5)(b)~~ (4)(b) of that section.

(8)

(b) The division shall deposit these collections to the credit of the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Arabian Horse Racing Promotion Fund." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Arabian Horse Racing Promotion Fund shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Arabian horses in this state; and such moneys may not be used to defray any expense of the

Department of Agriculture and Consumer Services in the administration of this chapter, except that the moneys generated by Arabian horse registration fees received pursuant to s. 570.382 may be used as provided in paragraph ~~(5)(b)~~ ~~(6)(b)~~ of that section.

Reviser's note.—Paragraph (7)(b) is amended to improve clarity and facilitate correct interpretation. Section 570.381(4)(b) does not exist, and paragraph (5)(b) provides for use of the registration fees. Paragraph (8)(b) is amended to conform to the redesignation of s. 570.382(6)(b) as s. 570.382(5)(b) by s. 1, ch. 93-7, Laws of Florida.

Section 56. Subsection (4) of section 550.375, Florida Statutes, is amended to read:

550.375 Operation of certain harness tracks.—

(4) The permitholder conducting a harness horse race meet must pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(6) ~~550.0951(7)~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 550.0951(7) does not exist, and subsection (6) relates to penalties.

Section 57. Subsection (1) of section 553.06, Florida Statutes, is amended to read:

553.06 State Plumbing Code.—

(1) The Florida Building Commission shall, in accordance with the provisions of chapter 120 and ss. 553.70-553.895, adopt the Standard Plumbing Code, 1994 edition, as adopted at the October 1993 annual meeting of the Southern Building Code Congress International, as the State Plumbing Code which shall be the minimum requirements statewide for all installations, repairs, and alterations to plumbing. The commission ~~board~~ may, in accordance with the requirements of chapter 120, adopt all or parts of updated or revised editions of the State Plumbing Code to keep abreast of latest technological advances in plumbing and installation techniques. Local governments which have adopted the South Florida, One and Two Family Dwelling or EPCOT Plumbing Codes may continue their use provided the requirements contained therein meet or exceed the requirements of the State Plumbing Code. Provided, however, nothing in this section shall alter or diminish the authority of the Department of Business and Professional Regulation to conduct plan reviews, issue variances, and adopt rules regarding sanitary facilities in public lodging and public food service establishments pursuant to chapter 509, providing that such actions do not conflict with the requirements for public restrooms in s. 553.141.

Reviser's note.—Amended to conform to the redesignation of the Board of Building Codes and Standards as the Florida Building Commission by s. 41, ch. 98-287, Laws of Florida.

Section 58. Subsection (4) of section 553.141, Florida Statutes, is amended to read:

553.141 Public restrooms; ratio of facilities for men and women; application; rules.—

(4) The Florida Building Commission Board of Building Codes and Standards shall adopt rules to administer this section, pursuant to chapter 120.

Reviser's note.—Amended to conform to the redesignation of the Board of Building Codes and Standards as the Florida Building Commission by s. 41, ch. 98-287, Laws of Florida.

Section 59. Section 553.503, Florida Statutes, is amended to read:

553.503 Adoption of guidelines.—Subject to the exceptions in s. 553.504, the federal Americans with Disabilities Act Accessibility Guidelines, as adopted by reference in 28 C.F.R., part 36, subparts A and D, and Title II of Pub. L. No. 101-336, are hereby adopted and incorporated by reference as the law of this state. The guidelines shall establish the minimum standards for the accessibility of buildings and facilities built or altered within this state. The 1997 Florida Accessibility Code for Building Construction must be adopted by the Florida Building Commission Board of Building Codes and Standards in accordance with chapter 120.

Reviser's note.—Amended to conform to the redesignation of the Board of Building Codes and Standards as the Florida Building Commission by s. 41, ch. 98-287, Laws of Florida.

Section 60. Section 553.506, Florida Statutes, is amended to read:

553.506 Powers of the commission board.—In addition to any other authority vested in the commission board by law, the Florida Building Commission Board of Building Codes and Standards, in implementing ss. 553.501-553.513, may, by rule, adopt revised and updated versions of the Americans with Disabilities Act Accessibility Guidelines in accordance with chapter 120.

Reviser's note.—Amended to conform to the redesignation of the Board of Building Codes and Standards as the Florida Building Commission by s. 41, ch. 98-287, Laws of Florida.

Section 61. Subsections (1) and (3) of section 553.512, Florida Statutes, are amended to read:

553.512 Modifications and waivers; advisory council.—

(1) The Florida Building Commission Board of Building Codes and Standards shall provide by regulation criteria for granting individual modifications of, or exceptions from, the literal requirements of this part upon a determination of unnecessary, unreasonable, or extreme hardship, provided such waivers shall not violate federal accessibility laws and regulations and

shall be reviewed by the Handicapped Accessibility Advisory Council consisting of the following seven members, who shall be knowledgeable in the area of handicapped accessibility. The Secretary of Community Affairs shall appoint the following: a representative from the Advocacy Center for Persons with Disabilities, Inc.; a representative from the Division of Blind Services; a representative from the Division of Vocational Rehabilitation; a representative from a statewide organization representing the physically handicapped; a representative from the hearing impaired; a representative from the President, Florida Council of Handicapped Organizations; and a representative of the Paralyzed Veterans of America. The terms for the first three council members appointed subsequent to October 1, 1991, shall be for 4 years, the terms for the next two council members appointed shall be for 3 years, and the terms for the next two members shall be for 2 years. Thereafter, all council member appointments shall be for terms of 4 years. No council member shall serve more than two 4-year terms subsequent to October 1, 1991. Any member of the council may be replaced by the secretary upon three unexcused absences. Upon application made in the form provided, an individual waiver or modification may be granted by the commission board so long as such modification or waiver is not in conflict with more stringent standards provided in another chapter.

(3) Meetings of the advisory council shall be held in conjunction with the regular meetings of the commission board.

Reviser's note.—Amended to conform to the redesignation of the Board of Building Codes and Standards as the Florida Building Commission by s. 41, ch. 98-287, Laws of Florida.

Section 62. Effective January 1, 2001, paragraph (b) of subsection (1), paragraph (a) of subsection (4), and subsection (5) of section 553.73, Florida Statutes, as amended by section 40 of chapter 98-287, Laws of Florida, are amended to read:

553.73 Florida Building Code.—

(1)

(b) The technical portions of the Florida Accessibility Code for Building Construction shall be contained in their its entirety in the Florida Building Code. The civil rights portions and the technical portions of the accessibility laws of this state shall remain as currently provided by law. Any revision or amendments to the Florida Accessibility Code for Building Construction pursuant to part V shall be considered adopted by the commission as part of the Florida Building Code. Neither the commission nor any local government shall revise or amend any standard of the Florida Accessibility Code for Building Construction except as provided for in part V.

(4)(a) Local governments shall comply with applicable standards for issuance of mandatory certificates of occupancy, minimum types of inspections, and procedures for plans review and inspections as established by the commission board by rule. Any amendments to standards established by the Florida Building Code pursuant to this paragraph shall be more stringent than such standards and shall be transmitted to the commission within 30

days after enactment. The local government shall make such amendments available to the general public in a usable format. The Department of Insurance is responsible for establishing the standards and procedures required in this paragraph for governmental entities with respect to applying the Florida Fire Prevention Code and the Life Safety Code.

(5) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. Once initially adopted and subsequently updated by the commission board, the Florida Building Code shall be deemed adopted for use statewide without adoptions by local government. When updating the Florida Building Code, the commission shall consider changes made by the adopting entity of any selected model code for any model code incorporated into the Florida Building Code by the commission, the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments.

Reviser's note.—Paragraph (1)(b) is amended to improve clarity and facilitate correct interpretation. Paragraph (4)(a) is amended to conform to the existence of the Florida Fire Prevention Code and the Life Safety Code. Paragraph (4)(a) and subsection (5) are amended to conform to the redesignation of the Board of Building Codes and Standards as the Florida Building Commission by s. 41, ch. 98-287, Laws of Florida.

Section 63. Subsections (3) and (4) of section 553.74, Florida Statutes, are amended to read:

553.74 Florida Building Commission.—

(3) Members of the commission board shall serve without compensation, but shall be entitled to reimbursement for per diem and travel expenses as provided by s. 112.061.

(4) Each appointed member is accountable to the Governor for the proper performance of the duties of the office. The Governor shall cause to be investigated any complaint or unfavorable report received concerning an action of the commission board or any member and shall take appropriate action thereon. The Governor may remove from office any appointed member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to, or being found guilty of, a felony.

Reviser's note.—Amended to conform to the redesignation of the Board of Building Codes and Standards as the Florida Building Commission by s. 41, ch. 98-287, Laws of Florida.

Section 64. Section 559.803, Florida Statutes, is reenacted to read:

559.803 Disclosure statement.—At least 3 working days prior to the time the purchaser signs a business opportunity contract, or at least 3 working days prior to the receipt of any consideration by the seller, whichever occurs first, the seller must provide the prospective purchaser a written document, the cover sheet of which is entitled in at least 12-point boldfaced capital

letters "DISCLOSURES REQUIRED BY FLORIDA LAW." Under this title shall appear the following statement in at least 10-point type: "The State of Florida has not reviewed and does not approve, recommend, endorse, or sponsor any business opportunity. The information contained in this disclosure has not been verified by the state. If you have any questions about this investment, see an attorney before you sign a contract or agreement." Nothing except the title and required statement shall appear on the cover sheet. Immediately following the cover sheet, the seller must provide an index page that briefly lists the contents of the disclosure document as required in this section and any pages on which the prospective purchaser can find each required disclosure. At the top of the index page, the following statement must appear in at least 10-point type: "The State of Florida requires sellers of business opportunities to disclose certain information to prospective purchasers. This index is provided to help you locate this information." If the index contains other information not required by this section, the seller shall place a designation beside each of the disclosures required by this section and provide an explanation of the designation at the end of the statement at the top of the index page. The disclosure document shall contain the following information:

(1) The name of the seller; whether the seller is doing business as an individual, partnership, corporation, or other business entity; the names under which the seller has done business; and the name of any parent or affiliated company that will engage in business transactions with the purchasers or who takes responsibility for statements made by the seller.

(2) The names, addresses, and titles of the seller's officers, directors, trustees, general partners, general managers, and principal executives and of any other persons charged with the responsibility for the seller's business activities relating to the sale of business opportunities.

(3) The length of time the seller has:

(a) Sold business opportunities; or

(b) Sold business opportunities involving the products, equipment, supplies, or services currently being offered to the purchaser.

(4) A full and detailed description of the actual services that the business opportunity seller undertakes to perform for the purchaser.

(5) A copy of a current (not older than 13 months) financial statement of the seller, updated to reflect material changes in the seller's financial condition.

(6) If training is promised by the seller, a complete description of the training, the length of the training, and the cost or incidental expenses of that training, which cost or expense the purchaser will be required to incur.

(7) If the seller promises services to be performed in connection with the placement of the equipment, product, or supplies at a location, the full nature of those services as well as the nature of the agreements to be made with the owners or managers of the location where the purchaser's equipment, product, or supplies will be placed.

(8) If the business opportunity seller is required to secure a bond or establish a trust deposit pursuant to s. 559.807, either of the following statements:

(a) “As required by Florida law, the seller has secured a bond issued by ..., a surety company authorized to do business in this state. Before signing a contract to purchase this business opportunity, you should confirm the bond’s status with the surety company.”; or

(b) “As required by Florida law, the seller has established a trust account or guaranteed letter of credit ...(number of account)... with ...(name and address of bank or savings institution).... Before signing a contract to purchase this business opportunity, you should confirm with the bank or savings institution the current status of the trust account or guaranteed letter of credit.”

(9) The following statement: “If the seller fails to deliver the product, equipment, or supplies necessary to begin substantial operation of the business within 45 days of the delivery date stated in your contract, you may notify the seller in writing and cancel your contract.”

(10) If the seller makes any statement concerning sales or earnings or a range of sales or earnings that may be made through this business opportunity, a statement disclosing:

(a) The total number of purchasers of business opportunities involving the product, equipment, supplies, or services being offered who have actually achieved sales of or received earnings in the amount or range specified within 3 years prior to the date of the disclosure statement.

(b) The total number of purchasers of business opportunities involving the product, equipment, supplies, or services being offered within 3 years prior to the date of the disclosure statement.

(11) A statement disclosing who, if any, of the persons listed in subsections (1) and (2):

(a) Has, at any time during the previous 10 fiscal years, regardless of adjudication, been convicted of, or found guilty of, or pled guilty or nolo contendere to, or has been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, a felony or a crime involving fraud, theft, larceny, violation of any franchise or business opportunity law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade.

(b) Has, at any time during the previous 7 fiscal years, been held liable in a civil action resulting in a final judgment or has settled out of court any civil action or is a party to any civil action involving allegations of fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade or any civil action which was brought by a present or former franchisee or franchisees and which involves

or involved the franchise relationship. However, only material individual civil actions need be so listed pursuant to this paragraph, including any group of civil actions which, irrespective of the materiality of any single such action, in the aggregate is material.

(c) Is subject to any currently effective state or federal agency or court injunctive or restrictive order, or has been subject to any administrative action in which an order by a governmental agency was rendered, or is a party to a proceeding currently pending in which such order is sought, relating to or affecting business opportunities activities or the business opportunity seller-purchaser relationship or involving fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade.

Such statement shall set forth the identity and location of the court or agency; the date of conviction, judgment, or decision; the penalty imposed; the damages assessed; the terms of settlement or the terms of the order; and the date, nature, and issuer of each such order or ruling. A business opportunity seller may include a summary opinion of counsel as to any pending litigation, but only if counsel's consent to the use of such opinion is included in the disclosure statement.

(12) A statement disclosing who, if any, of the persons listed in subsections (1) and (2) at any time during the previous 7 fiscal years has:

- (a) Filed in bankruptcy.
- (b) Been adjudged bankrupt.
- (c) Been reorganized due to insolvency.

(d) Been a principal, director, executive officer, or partner of any other person that has so filed or was so adjudged or reorganized during or within 1 year after the period that such person held such position in relation to such other person. If so, the name and location of the person having so filed or having been so adjudged or reorganized, the date thereof, and any other material facts relating thereto shall be set forth.

(13) A copy of the business opportunity contract which the seller uses as a matter of course and which is to be presented to the purchaser at closing.

Should any seller of business opportunities prepare a disclosure statement pursuant to 16 C.F.R. ss. 436.1 et seq., a Trade Regulation Rule of the Federal Trade Commission regarding Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, the seller may file that disclosure statement in lieu of the document required pursuant to this section. Should the seller be required pursuant to 16 C.F.R. to prepare any other documents to be presented to the prospective purchaser, those documents shall also be filed with the department.

Reviser's note.—Section 10, ch. 99-307, Laws of Florida, purported to amend paragraph (11)(a), but failed to republish the flush left language at

the end of subsection (11) and the flush left language at the end of the section. In the absence of affirmative evidence that the Legislature intended to repeal this language, the section is reenacted to confirm that the omissions were not intended.

Section 65. Section 559.807, Florida Statutes, is amended to read:

559.807 Bond or trust account required.—If the business opportunity seller makes any representations set forth in s. ~~559.801(1)(a)3, 559.801(1)(c)~~, the seller must either have obtained a surety bond issued by a surety company authorized to do business in this state or have established a trust account or a guaranteed letter of credit with a licensed and insured bank or savings institution located in the state. The amount of the bond, trust account, or guaranteed letter of credit shall be an amount not less than \$50,000. The bond or trust account shall be in the favor of the department. Any person who is damaged by any violation of ss. 559.80-559.815, or by the seller's breach of the contract for the business opportunity sale or of any obligation arising therefrom, may bring an action against the bond, trust account, or guaranteed letter of credit to recover damages suffered; however, the aggregate liability of the surety or trustee shall be only for actual damages and in no event shall exceed the amount of the bond, trust account, or guaranteed letter of credit.

Reviser's note.—Amended to conform to the redesignation of s. 559.801(1)(c) as s. 559.801(1)(a)3. by s. 1, ch. 93-244, Laws of Florida.

Section 66. Subsection (11) of section 560.129, Florida Statutes, is amended to read:

560.129 Confidentiality.—

(11) The exemptions created pursuant to subsections ~~(1)-(10) (1)-(11)~~ for purposes of the Money Transmitters' Code in this chapter, as created by chapter 94-238, Laws of Florida, and chapter 94-354, Laws of Florida, are exempt from the provisions of ss. 119.07(1) and 286.011 and s. 24(a) and (b), Art. I of the State Constitution.

Reviser's note.—Amended to conform to the redesignation of subsection (11) of s. 560.129 as subsection (10) necessitated by the deletion of former subsection (9) by s. 345, ch. 96-406, Laws of Florida.

Section 67. Section 561.1105, Florida Statutes, is amended to read:

561.1105 Inspection of licensed premises; coin-operated amusement machines.—In conducting inspections of establishments licensed under the Beverage Law, the division shall determine if each coin-operated amusement machine that is operated on the licensed premises is properly registered with the Department of Revenue. Each month, the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed premises that has on location a coin-operated amusement machine and that does not have an identifying certificate conspicuously displayed as required by s. ~~212.05(1)(i) 212.05(1)(j)~~.

Reviser's note.—Amended to conform to the redesignation of s. 212.05(1)(j) as s. 212.05(1)(i) necessitated by the repeal of s. 212.05(1)(g) by s. 20, ch. 97-94, Laws of Florida.

Section 68. Paragraph (a) of subsection (12) of section 561.20, Florida Statutes, is amended to read:

561.20 Limitation upon number of licenses issued.—

(12)(a) In addition to any other licenses issued under the provisions of this chapter, the division is authorized to issue a special license to a person or to an organization for the purpose of authorizing:

- ~~1. A bulk transfer as described in chapter 676;~~
1. 2. A sale pursuant to a levy and execution;
2. 3. A sale by an insurance company in possession of alcoholic beverages;
3. 4. A bankruptcy sale;
4. 5. A sale resulting from a license suspension or revocation;
5. 6. A sale of damaged goods by a common carrier;
6. 7. A sale by a bona fide wine collector; or
7. 8. A sale of packaged alcoholic beverages pursuant to part V of chapter 679.

Reviser's note.—Amended to conform to the repeal of chapter 676 by s. 3, ch. 93-77, Laws of Florida.

Section 69. Section 567.07, Florida Statutes, is reenacted to read:

567.07 Results of election.—

(1) If a majority of those legally voting at any election under s. 567.01 cast their votes "Against Selling Intoxicating Liquors, Wines, or Beer" on question number 1, then no intoxicating liquors, wines, or beer shall be sold in the county in which the election was held until otherwise determined by an election, which shall not be held oftener than once in every 2 years.

(2) If a majority of those legally voting at any such election cast their votes "For Selling Intoxicating Liquors, Wines, or Beer" on question number 1 and a majority of votes legally cast on question number 2 be cast "For Sales by the Package Only," then:

(a) No intoxicating liquors, wines, or beer shall be sold in said county that are not contained in sealed containers.

(b) No intoxicating liquors, wines, or beer shall be consumed in said county on the premises where such intoxicating liquors, wines, or beer are sold or on any other premise under the control, either directly or indirectly,

of the licensee, until otherwise determined in an election, which shall not be held oftener than once in every 2 years.

(c) After the expiration of 2 years, an election pursuant to s. 567.01(2)(b) may be held to determine the sole question of whether intoxicating liquors, wines, or beer may be sold by the drink for consumption on premises. If a majority of those legally voting cast their votes for selling intoxicating liquors, wines, or beer by the drink for consumption on premises, such alcoholic beverages may be sold as otherwise provided by law in that county until otherwise determined in an election, which shall not be held oftener than once every 2 years. If a majority of those legally voting cast their vote against the sale of intoxicating liquors, wines, or beer by the drink for consumption on premises, sales by the package only shall continue.

(3) In the event a majority of those legally voting in any such election cast their vote "For Selling Intoxicating Liquors, Wines, or Beer" on question number 1 and a majority of the votes legally cast on question number 2 be not cast "For Sales by the Package Only," then intoxicating liquors, wines, or beer may be sold as otherwise provided by law in said county until otherwise determined in an election, which shall not be held oftener than once in every 2 years.

Reviser's note.—Section 3, ch. 99-380, Laws of Florida, purported to amend s. 567.07, but failed to republish subsection (3). In the absence of affirmative evidence that the Legislature intended to repeal subsection (3), s. 567.07 is reenacted to confirm that the omission was not intended.

Section 70. Section 570.1912, Florida Statutes, is amended to read:

~~570.1912 Funding of Agricultural Emergency Eradication Trust Fund.—There is hereby appropriated from the General Revenue Fund to the Agricultural Emergency Eradication Trust Fund of the Department of Agriculture and Consumer Services the sum of \$1,000,000 for fiscal year 1998-1999. In fiscal year 1999-2000 and each year thereafter, there shall be appropriated from the General Revenue Fund to the Agricultural Emergency Eradication Trust Fund an amount equal to the previous year's transfers into the trust fund from ss. 206.606 and 206.608.~~

Reviser's note.—Amended to delete a provision that has served its purpose. The appropriation to the Agricultural Emergency Eradication Trust Fund was for the fiscal year 1998-1999.

Section 71. Paragraph (b) of subsection (1) of section 570.235, Florida Statutes, is amended to read:

570.235 Pest Exclusion Advisory Committee.—

(1) There is created within the department a Pest Exclusion Advisory Committee. The advisory committee shall be composed of 24 members.

(b) In addition, the committee shall be composed of the following 7 members:

1. Two members representing and appointed by the Animal and Plant Health Inspection Service, United States Department of Agriculture.
2. One member representing and appointed by the Florida Department of Health.
3. One member representing and appointed by the Florida Department of Environmental Protection.
4. One member representing and appointed by the Florida Fish and Wildlife Conservation ~~Game and Fresh Water Fish~~ Commission.
5. One member appointed by the Speaker of the House of Representatives.
6. One member appointed by the President of the Senate.

Reviser's note.—Amended to conform to the redesignation of the Game and Fresh Water Fish Commission as the Fish and Wildlife Conservation Commission by s. 2, ch. 99-245, Laws of Florida.

Section 72. Subsection (2) of section 578.28, Florida Statutes, is amended to read:

578.28 Seed in hermetically sealed containers.—The period of validity of germination tests is extended to the following periods for seed packaged in hermetically sealed containers, under conditions and label requirements set forth in this section:

(2) CONDITIONS OF PACKAGING.—The following conditions are considered as minimum:

(a) Hermetically sealed packages or containers.—A container, to be acceptable under the provisions of this section, shall not allow water vapor penetration through any wall, including the wall seals, greater than 0.05 gram of water per 24 hours per 100 square inches of surface at 100 °F. with a relative humidity on one side of 90 percent and on the other of 0 percent. Water vapor penetration (WVP) is measured by the standards of the National Institute of Standards and Technology as: gm H<sub>2</sub>O/24 hr./100 sq. in./ 100 °F/90 percent RH V. 0 percent RH.

(b) Moisture of seed packaged.—The moisture of agricultural or vegetable seed subject to the provisions of this section shall be established by rule of the department.

~~A tolerance of 1 percent is applicable to the maximum percentage of moisture listed above and the percentage of moisture found by an official test. The percentage of moisture shall be determined by the air oven method.~~

Reviser's note.—Amended to conform to the deletion of the table listing moisture percentages for specified seed by s. 27, ch. 92-143, Laws of Florida.

Section 73. Subsection (4) of section 585.74, Florida Statutes, is amended to read:

**585.74 Grant of inspection; fees.—**

(4) Each grant of inspection shall be issued for a 3-year period. ~~Each person who possesses a grant of inspection from the department as of July 1, 1994, must apply before December 1, 1995, to renew the grant of inspection.~~ The department shall charge a fee not to exceed \$150 to defray the cost of processing the grant of inspection.

Reviser's note.—Amended to delete language that has served its purpose. The referenced grant of inspection renewal period ended December 1, 1995.

Section 74. Subsection (6) of section 585.91, Florida Statutes, is amended to read:

**585.91 Regulation of custom slaughterers and processors; permits.—**

(6) The department shall charge a fee not to exceed \$75 to defray the cost of processing the permit. ~~Each person who possesses a custom slaughtering or processing permit as of July 1, 1994, must apply before December 1, 1996, to renew the permit.~~ Each renewal of a custom slaughtering or processing permit shall be issued for a period of 3 years.

Reviser's note.—Amended to delete language that has served its purpose. The referenced custom slaughtering or processing permit renewal period ended December 1, 1996.

Section 75. Section 589.101, Florida Statutes, is amended to read:

**589.101 Blackwater River State Forest; lease of board's interest in gas, oil, and other minerals.—**Notwithstanding the provisions of ss. ~~253.51-253.61~~ 253.51-253.58, 253.60, 253.61, the Division of Forestry is hereby expressly granted the authority to lease its 25-percent interest in oil, gas, and other minerals within the boundaries of the Blackwater River State Forest; provided, however, that grants shall be made only to the lessee or lessees holding the 75-percent interest in said minerals retained by the United States in its conveyance to this state. The concurrence of the Board of Trustees of the Internal Improvement Trust Fund required by s. 589.10 shall not be necessary under the provisions of this section.

Reviser's note.—Amended to conform to the repeal of s. 253.58 by s. 2, ch. 89-358, Laws of Florida.

Section 76. Paragraph (e) of subsection (7) of section 590.02, Florida Statutes, is amended to read:

**590.02 Division powers, authority, and duties; liability; building structures; Florida Center for Wildfire and Forest Resources Management Training.—**

(7) The division may organize, staff, equip, and operate the Florida Center for Wildfire and Forest Resources Management Training. The center shall serve as a site where fire and forest resource managers can obtain

current knowledge, techniques, skills, and theory as they relate to their respective disciplines.

(e) An advisory committee consisting of the following individuals or their designees must review program curriculum, course content, and scheduling: the Director of the Florida Division of Forestry; the Assistant Director of the Florida Division of Forestry; the Director of the School of Forest Resources and Conservation of the University of Florida; the Director of the Division of Recreation and Parks of the Department of Environmental Protection; the Director of the Division of the State Fire Marshal; the Director of the Florida Chapter of The Nature Conservancy; the Executive Vice President of the Florida Forestry Association; the President of the Florida Farm Bureau Federation; the Executive Director of the Florida Fish and Wildlife Conservation Game and Fresh Water Fish Commission; the Executive Director of a Water Management District as appointed by the Commissioner of Agriculture; the Supervisor of the National Forests in Florida; the President of the Florida Fire Chief's Association; and the Executive Director of the Tall Timbers Research Station.

Reviser's note.—Amended to conform to the redesignation of the Game and Fresh Water Fish Commission as the Fish and Wildlife Conservation Commission by s. 2, ch. 99-245, Laws of Florida.

Section 77. Paragraph (a) of subsection (2) of section 593.111, Florida Statutes, is amended to read:

593.111 Eligibility for certification of cotton growers' organization.—

(2)(a) The terms of office of the board members shall be for 3 years or until their successors are duly appointed and qualified. ~~The terms of office of members of the first board shall date from November 1, 1987.~~

Reviser's note.—Amended to delete language that has served its purpose.

Section 78. Paragraph (c) of subsection (2) of section 601.04, Florida Statutes, is amended to read:

601.04 Florida Citrus Commission; creation and membership.—

(2)

~~(c) Each member of the commission in office on October 1, 1990, shall continue in office until the expiration of her or his current term. When making an appointment to the commission on or after October 1, 1990, the Governor shall announce the district and classification of the person appointed.~~

Reviser's note.—Amended to delete language that has served its purpose.

Section 79. Subsection (2) of section 601.155, Florida Statutes, is amended to read:

601.155 Equalizing excise tax; credit; exemption.—

(2) Upon the exercise of any privilege described in subsection (1), the excise tax levied by this section shall be at the same rate per box of oranges or grapefruit utilized in the initial production of the processed citrus products so handled as that imposed, at the time of exercise of the taxable privilege, by s. 601.15 plus that imposed, if any, by s. 601.156 per box of oranges.

Reviser's note.—Amended to conform to the repeal of s. 601.156 by s. 2, ch. 95-358, Laws of Florida.

Section 80. Paragraph (j) of subsection (3) of section 616.242, Florida Statutes, is amended to read:

616.242 Safety standards for amusement rides.—

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

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

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 81. Subsection (2) of section 626.8414, Florida Statutes, is amended to read:

626.8414 Qualifications for examination.—The department must authorize any natural person to take the examination for the issuance of a license as a title insurance agent if the person meets all of the following qualifications:

(2) The applicant must be a bona fide resident of this state. A person meets the residency requirement of this ~~subsection paragraph~~, notwithstanding the existence at the time of application for license of a license in the applicant's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that the resident licenses have been canceled or changed to a nonresident basis and that the applicant is in good standing.

Reviser's note.—Amended to conform to the redesignation of subunits necessitated by the repeal of former subsection (2) by s. 65, ch. 99-5, Laws of Florida.

Section 82. Subsection (4) of section 627.651, Florida Statutes, is amended to read:

627.651 Group contracts and plans of self-insurance must meet group requirements.—

(4) This section does not apply to any plan which is established or maintained by an individual employer in accordance with the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, or to a multiple-employer welfare arrangement as defined in s. 624.437(1), except that a multiple-employer welfare arrangement shall comply with ss. 627.419, 627.657, 627.6575, ~~627.6576~~, 627.6578, 627.6579, 627.6612, 627.66121, 627.66122, 627.6615, 627.6616, and 627.662(6). This subsection does not allow an authorized insurer to issue a group health insurance policy or certificate which does not comply with this part.

Reviser's note.—Amended to conform to the repeal of s. 627.6576 by s. 33, ch. 97-179, Laws of Florida.

Section 83. Section 631.0515, Florida Statutes, is amended to read:

631.0515 Appointment of receiver; insurance holding company.—A delinquency proceeding pursuant to this chapter constitutes the sole and exclusive method of dissolving, liquidating, rehabilitating, reorganizing, conserving, or appointing a receiver of a Florida corporation which is not insolvent as defined by s. ~~607.01401(16)~~ 607.01401(15); which through its shareholders, board of directors, or governing body is deadlocked in the management of its affairs; and which directly or indirectly owns all of the stock of a Florida domestic insurer. The department may petition for an order directing it to rehabilitate such corporation if the interests of policyholders or the public will be harmed as a result of the deadlock. The department shall use due diligence to resolve the deadlock. Whether or not the department petitions for an order, the circuit court shall not have jurisdiction pursuant to s. 607.271, s. 607.274, or s. 607.277 to dissolve, liquidate, or appoint receivers with respect to, a Florida corporation which directly or indirectly owns all of the stock of a Florida domestic insurer and which is not insolvent as defined by s. ~~607.01401(16)~~ 607.01401(15).

Reviser's note.—Amended to conform to the redesignation of subunits of s. 607.01401 by s. 18, ch. 99-218, Laws of Florida.

Section 84. Subsection (3) of section 631.911, Florida Statutes, is amended to read:

631.911 Creation of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated; merger; effect of merger.—

(3) The corporation shall perform its functions under a plan of operation and shall exercise its powers through a board of directors. Upon adoption of a plan of operation for the corporation, the board shall manage the Florida Workers' Compensation Insurance Guaranty Association Account.

Reviser's note.—Amended to conform to the full title of the account pursuant to s. 631.928.

Approved by the Governor May 25, 2000.

Filed in Office Secretary of State May 25, 2000.