

Committee Substitute for Senate Bill No. 1952

An act relating to the Department of Agriculture and Consumer Services; amending s. 493.6203, F.S.; revising requirements for obtaining a Class “MA,” Class “M,” or Class “C” license as a private investigator; revising the requirements for Class “CC” licensure as an intern; amending s. 493.6401, F.S.; requiring a person who conducts Internet-based training or correspondence training for repossession licensees to have a Class “RS” license; amending s. 493.6406, F.S.; providing requirements for training conducted by a repossession services school or training facility; revising the information required on a licensure application relating to such a school or facility; amending s. 501.921, F.S.; revising the name of the organization that provides standards and test procedures used by the department in adopting rules governing the formulation of antifreeze; creating s. 501.973, F.S.; providing definitions; prohibiting certain business entities from using the term “chamber of commerce” under certain circumstances; providing exceptions; providing a penalty; specifying nonimposition of certain requirements; authorizing chambers of commerce to sue certain business entities to enjoin use of certain terms; amending s. 525.07, F.S.; revising a requirement for testing the accuracy of devices used to measure petroleum fuel; amending s. 526.51, F.S.; revising requirements for registering a brand of brake fluid for sale in the state; requiring an applicant that does not own the brand name of a brake fluid to submit a notarized affidavit to the department in order to register that product; revising the amount of the sample of brake fluid required to be submitted to the department; amending s. 527.04, F.S.; revising provisions requiring proof of liability insurance coverage prior to licensure under ch. 527, F.S., relating to the sale of liquefied petroleum gas; amending s. 527.07, F.S.; prohibiting a person other than the owner or other authorized person from removing gas from a liquefied petroleum gas container or receptacle for any gas or compound; creating s. 576.092, F.S.; creating the Consumer Fertilizer Task Force; providing legislative findings; providing for task force membership and appointment of a chair and vice chair; requiring the department to staff the task force; requiring a report to the Legislature by a time certain; providing for abolition of the task force; providing an appropriation; providing an effective date.

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

Section 1. Present subsection (5) of section 493.6203, Florida Statutes, is renumbered as subsection (6) and amended, present subsection (6) is renumbered as subsection (7), and a new subsection (5) is added to that section, to read:

493.6203 License requirements.—In addition to the license requirements set forth elsewhere in this chapter, each individual or agency shall comply with the following additional requirements:

(5) Effective January 1, 2008, an applicant for a Class “MA,” Class “M,” or Class “C” license must pass an examination that covers the provisions of this chapter and is administered by the department or by a provider approved by the department. The applicant must pass the examination before applying for licensure and must submit proof with the license application on a form approved by rule of the department that he or she has passed the examination. The administrator of the examination shall verify the identity of each applicant taking the examination.

(a) The examination requirement in this subsection does not apply to an individual who holds a valid Class “CC,” Class “C,” Class “MA,” or Class “M” license.

(b) Notwithstanding the exemption provided in paragraph (a), if the license of an applicant for relicensure has been invalid for more than 1 year, the applicant must take and pass the examination.

(c) The department shall establish by rule the content of the examination, the manner and procedure of its administration, and an examination fee that may not exceed \$100.

(6)(a)(5) A Class “CC” licensee shall serve an internship under the direction and control of a designated sponsor, who is a Class “C,” Class “MA,” or Class “M” licensee.

(b) Effective September 1, 2008, an applicant for a Class “CC” license must have completed at least 24 hours of a 40-hour course pertaining to general investigative techniques and this chapter, which course is offered by a state university or by a school, community college, college, or university under the purview of the Department of Education, and the applicant must pass an examination. The certificate evidencing satisfactory completion of at least 24 hours of a 40 hour course must be submitted with the application for a Class “CC” license. The remaining 16 hours must be completed and an examination passed within 180 days. If documentation of completion of the required training is not submitted within the specified timeframe, the individual’s license is automatically suspended or his or her authority to work as a Class “CC” pursuant to s. 493.6105(9) is rescinded until such time as proof of certificate of completion is provided to the department. The training course specified in this paragraph may be provided by face-to-face presentation, on-line technology, or a home study course in accordance with rules and procedures of the Department of Education. The administrator of the examination must verify the identity of each applicant taking the examination.

1. Upon an applicant’s successful completion of each part of the approved course and passage of any required examination, the school, community college, college, or university shall issue a certificate of completion to the applicant. The certificates must be on a form established by rule of the department.

2. The department shall establish by rule the general content of the training course and the examination criteria.

3. If the license of an applicant for relicensure has been invalid for more than 1 year, the applicant must complete the required training and pass any required examination.

Section 2. Subsection (7) of section 493.6401, Florida Statutes, is amended to read:

493.6401 Classes of licenses.—

(7) Any person who operates a repossessor school or training facility or who conducts an Internet-based training course or a correspondence training course must shall have a Class “RS” license.

Section 3. Subsection (1) and paragraph (b) of subsection (2) of section 493.6406, Florida Statutes, are amended to read:

493.6406 Repossession services school or training facility.—

(1) Any school, training facility, or instructor who offers the training outlined in s. 493.6403(2) for Class “EE” applicants shall, before licensure of such school, training facility, or instructor, file with the department an application accompanied by an application fee in an amount to be determined by rule, not to exceed \$60. The fee shall not be refundable. This training may be offered as face-to-face training, Internet-based training, or correspondence training.

(2) The application shall be signed and notarized and shall contain, at a minimum, the following information:

(b) The street address of the place at which the training is to be conducted or the street address of the Class “RS” school offering Internet-based or correspondence training.

Section 4. Section 501.921, Florida Statutes, is amended to read:

501.921 Standards.—The department’s rules for standards, definitions, and test procedures for antifreeze may encompass those specified by ASTM International ~~the American Society for Testing and Materials~~. The department may adopt any other specification it considers appropriate to protect consumers from questionable formulations of antifreeze.

Section 5. Section 501.973, Florida Statutes, is created to read:

501.973 Chambers of commerce.—

(1) For the purposes of this section:

(a) “Business entity” means any corporation, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state.

(b) “Chamber of commerce” means a voluntary membership, dues-paying organization of business and professional persons dedicated, as stated in the

articles of incorporation or bylaws of the organization, to improving the economic climate and business development of the community, area, or region in which the organization is located and which:

1. Operates as an approved not-for-profit corporation under chapter 617 and as a corporation or association qualified for tax exempt status under s. 501(c)(3) or s. 501(c)(6) of the Internal Revenue Code of 1986, as amended.

2. Files any required corporation annual reports with the Secretary of State and, if applicable, required annual information returns with the United States Internal Revenue Service.

3. Is governed by a volunteer board of directors of at least seven members who are elected from among the membership of the organization and who serve without compensation.

(2) A business entity, other than a chamber of commerce, shall not use the term “chamber of commerce” in its name or to describe itself, except for binational chambers of commerce recognized by the Office of International Affairs of the Department of State or chambers of commerce in existence on or before October 1, 1992. Any business entity which violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) This section imposes no requirement for oversight or regulation of a business entity name, trademark, trade name, or other requirement for filing or registration under any provision of law.

(4) Subject to the provisions of s. 495.151, a chamber of commerce may sue any business entity that is not a chamber of commerce as defined in this section to enjoin such entity from using the term “chamber of commerce” in its name or to describe itself as a chamber of commerce in any business or commerce.

Section 6. Subsection (9) of section 525.07, Florida Statutes, is amended to read:

525.07 Powers and duties of department; inspections; unlawful acts.—

(9) All persons and service agencies that adjust the accuracy of a petroleum fuel measuring device must use test measures that have been calibrated with standards traceable to the National Institute of Standards and Technology within 1 year prior to the date of the adjustment for volumes of less than 500 gallons and within 3 years before the date of the adjustment for volumes of 500 gallons or more.

Section 7. Subsection (1) of section 526.51, Florida Statutes, is amended to read:

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

(1)(a) Application for registration of each brand of brake fluid shall be made on forms to be supplied by the department. The applicant shall give

his or her name and address and, the brand name of the brake fluid, state that he or she owns ~~the said~~ brand name and has complete control over the product sold thereunder in Florida, and provide the name and address of resident agent in Florida. If the applicant does not own the brand name but wishes to register the product with the department, a notarized affidavit that gives the applicant full authorization to register the brand name and that is signed by the owner of the brand name must accompany the application for registration. The affidavit must include all affected brand names, the owner's company or corporate name and address, the applicant's company or corporate name and address, and a statement from the owner authorizing the applicant to register the product with the department. The owner of the brand name shall maintain complete control over each product sold under that brand name in this state. All new product applications must ~~Application shall~~ be accompanied by a certified report from of an independent testing laboratory, setting forth the analysis of the said brake fluid which shall show its quality to be not less than the specifications established by the department for brake fluids. A sample of not less than 24 fluid ounces ~~one-half gallon~~ of brake fluid shall be submitted, in a container or containers, with labels representing labeled exactly how the as containers of brake fluid will be labeled when sold, and the ~~such~~ sample and container shall be analyzed and inspected by the Division of Standards in order that compliance with the department's specifications and labeling requirements may be verified. Upon approval of the ~~such~~ application, the department shall register the brand name of the ~~such~~ brake fluid and issue to the applicant a permit authorizing the registrant to sell the ~~such~~ brake fluid in this state during the permit year specified in the permit.

(b) Each applicant shall pay a fee of \$100 with each application. A permit may be renewed by application to the department, accompanied by a renewal fee of \$50 on or before the last day of the permit year immediately preceding the permit year for which application is made for renewal of registration. To any fee not paid when due, there shall accrue a penalty of \$25 which shall be added to the renewal fee. Renewals will be accepted only on brake fluids ~~that which~~ have no change in formula, composition or brand name. Any change in formula, composition or brand name of any brake fluid constitutes ~~shall constitute~~ a new product that must ~~which shall~~ be registered in accordance with ~~the provisions of this part~~.

Section 8. Section 527.04, Florida Statutes, is amended to read:

527.04 Proof of insurance required.—

(1) Before any license is issued, except to a dealer in appliances and equipment for use of liquefied petroleum gas or a category III liquefied petroleum gas cylinder exchange operator, the applicant must deliver to the department satisfactory evidence that the applicant is covered by a primary policy of bodily injury liability and property damage liability insurance that covers the products and operations with respect to such business and is issued by an insurer authorized to do business in this state for an amount not less than \$1 million and that the premium on such insurance is paid. An insurance certificate, affidavit, or other satisfactory evidence of acceptable insurance coverage shall be accepted as proof of insurance. In lieu of an

insurance policy, the applicant may deliver a good and sufficient bond in the amount of \$1 million, payable to the Governor of Florida, with the applicant as principal and a surety company authorized to do business in this state as surety. The bond must be conditioned upon the applicant's principal's compliance with the provisions of this chapter and the rules of the department with respect to the conduct of such business and shall indemnify and hold harmless all persons from loss or damage by reason of the applicant's principal's failure to comply. However, the aggregated liability of the surety may not exceed \$1 million. If the insurance policy is canceled or otherwise terminated or the bond becomes insufficient, the department may require new proof of insurance or a new bond to be filed, and if the licenseholder principal fails to comply do so, the department shall cancel the license issued and give the licenseholder principal written notice that it is unlawful to engage in business without a license. If the applicant furnishes satisfactory evidence that he or she is covered by a primary policy of bodily injury liability and property damage liability insurance covering the products and operations with respect to such business, issued by an insurer authorized to do business in the state, for an amount not less than \$1 million and that the premiums on such insurance are paid, an insurance affidavit or other satisfactory evidence of acceptable insurance coverage shall be accepted in lieu of the bond. A new bond is not required as long as the original bond remains sufficient and in force. If the licenseholder's insurance coverage coverages as required by this subsection is are canceled or otherwise terminated, the insurer must notify the department within 30 days after the such cancellation or termination.

(2) Before any license is issued to a class III liquefied petroleum gas cylinder exchange operator, the applicant must deliver to the department satisfactory evidence that the applicant is covered by a primary policy of bodily injury liability and property damage liability insurance that covers the products and operations with respect to the business and is issued by an insurer authorized to do business in this state for an amount not less than \$300,000 and that the premium on the insurance is paid. An insurance certificate, affidavit, or other satisfactory evidence of acceptable insurance coverage shall be accepted as proof of insurance. In lieu of an insurance policy, the applicant may deliver a good and sufficient bond in the amount of \$300,000, payable to the Governor, with the applicant as principal and a surety company authorized to do business in this state as surety. The bond must be conditioned upon the applicant's principal's compliance with this chapter and the rules of the department with respect to the conduct of such business and must indemnify and hold harmless all persons from loss or damage by reason of the applicant's principal's failure to comply. However, the aggregated liability of the surety may not exceed \$300,000. If the insurance policy is canceled or otherwise terminated or the bond becomes insufficient, the department may require new proof of insurance or a new bond to be filed, and if the licenseholder principal fails to comply do so, the department shall cancel the license issued and give the licenseholder principal written notice that it is unlawful to engage in business without a license. If the applicant furnishes satisfactory evidence that he or she is covered by a primary policy of bodily injury liability and property damage liability insurance covering the products and operations with respect to such business, issued by an insurer authorized to do business in the state, for an amount

not less than \$300,000 and that the premiums on such insurance are paid, an insurance affidavit or other satisfactory evidence of acceptable insurance coverage shall be accepted in lieu of the bond. A new bond is not required as long as the original bond remains sufficient and in force. If the licenseholder's insurance coverage coverages required by this subsection ~~is~~ are canceled or otherwise terminated, the insurer must notify the department within 30 days after the ~~such~~ cancellation or termination.

(3) Any person having a cause of action on ~~the~~ such bond may bring suit against the principal and surety, and a copy of such bond duly certified by the department shall be received in evidence in the courts of this state without further proof. The department shall furnish a certified copy of such bond upon payment to it of its lawful fee for making and certifying such copy.

Section 9. Section 527.07, Florida Statutes, is amended to read:

527.07 Restriction on use of containers.—~~A~~ No person, other than the owner and those authorized by the owner, may not shall sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner any liquefied petroleum gas container or receptacle for any gas or compound, or for any other purpose.

Section 10. Section 576.092, Florida Statutes, is created to read:

576.092 Consumer Fertilizer Task Force.—

(1) The Legislature finds that:

(a) There is a need for better training and education regarding the proper use of consumer fertilizers.

(b) There should exist a mechanism to help local governments promote and encourage the proper use of fertilizers, thereby eliminating or minimizing the potential for environmental impacts.

(c) Local government regulation of fertilizer uses for nonagricultural applications should be based on sound science, including water quality, agronomy, and horticulture.

(d) There is a need for education regarding the use of consumer fertilizers.

(e) There is a need for improved standards regarding nonagricultural fertilizer use and application.

(f) While the constituents in fertilizer are naturally occurring in the environment, the improper use of fertilizer can be one of many contributors to nonpoint source pollution.

(g) The state's local governments are potentially subject to regulatory enforcement action by state or federal entities as a result of nonpoint source pollution caused by stormwater runoff.

(2)(a) There is hereby created the Consumer Fertilizer Task Force within the Department of Agriculture and Consumer Services for the purposes of:

1. Assessing existing data and information regarding nutrient enrichment and surface waters due to fertilizer, assessing management strategies for reducing water quality impacts associated with fertilizer, and identifying additional research needs.

2. Developing statewide guidelines governing nonagricultural fertilizer use rates, formulations, and applications with attention to the geographic regions identified in Rule 5E-1.003, Florida Administrative Code.

3. Taking public input and testimony concerning the issues in this section.

4. Recommending methods to ensure local ordinances are based on best available data and science and to achieve uniformity among local government ordinances where possible, unless local ordinance variations are necessary to meet mandated state and federal water quality standards.

5. Developing model ordinances for municipalities and counties concerning the use of nonagricultural fertilizer.

(b)1. The task force shall consist of 13 members who are technically qualified by training, education, or experience in water quality, horticultural, or agronomic science, and who shall be appointed as follows: three members appointed by the President of the Senate, one of whom shall be a representative from the Department of Environmental Protection, one of whom shall be a representative of the environmental community, and one of whom shall be a member of the Senate; three members appointed by the Speaker of the House of Representatives, one of whom shall be a representative from a water management district, one of whom shall be a representative of the University of Florida's Institute for Food and Agricultural Sciences, and one of whom shall be a member of the House of Representatives; five members appointed by the Commissioner of Agriculture, one of whom shall be a representative from the Department of Agriculture and Consumer Services, one of whom shall be a representative from the Office of Agricultural Water Policy, one of whom shall be a representative from the national fertilizer industry, one of whom shall be a representative from the Florida-based fertilizer industry, and one of whom shall be a registered landscape architect; one member appointed by the Florida League of Cities, Inc.; and one member appointed by the Florida Association of Counties.

2. Members shall choose a chair and vice chair from the membership of the task force.

(3) Staffing for the task force shall be provided by the Department of Agriculture and Consumer Services.

(4) The task force shall review and evaluate the issues identified in paragraph (2)(a) and take public testimony. A report of the recommendations and findings of the task force, including recommendations for statutory changes, if any, shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2008, and the task force shall be abolished upon the transmittal of the report.

Section 11. The sum of \$58,559 is appropriated for the 2007-2008 fiscal year from the Licensing Trust Fund to the Department of Agriculture and Consumer Services for the purpose of developing curriculum and administering examinations to applicants for licensure as private investigators.

Section 12. This act shall take effect July 1, 2007.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.