

CHAPTER 2011-56

Senate Bill No. 2122

An act relating to state government operations; amending s. 20.14, F.S.; removing the Division of Dairy Industry within the department; changing the name of the Division of Forestry to the Florida Forest Service; amending s. 320.90, F.S.; requiring the Department of Legal Affairs, rather than the Department of Agriculture and Consumer Services, to distribute free of charge a motor vehicle consumer's rights pamphlet; amending s. 501.160, F.S.; providing for the state attorneys and the Department of Legal Affairs, rather than the Department of Agriculture and Consumer Services, to enforce the law prohibiting price gouging; reenacting s. 570.18, F.S., relating to the organization of the Department of Agriculture and Consumer Services, to incorporate the amendment made to s. 570.29, F.S., in a reference thereto; amending s. 570.20, F.S.; removing the time limitations on provisions authorizing moneys in the General Inspection Trust Fund to be used for programs operated by the Department of Agriculture and Consumer Services; amending s. 570.29, F.S.; removing the Division of Dairy Industry within the department, to conform to changes made by the act; changing the name of the Division of Forestry to the Florida Forest Service; adding the Division of Licensing as a division within the department; repealing ss. 570.40 and 570.41, F.S., relating to the powers and duties of the Division of Dairy Industry; amending s. 570.50, F.S.; adding the inspection of dairy farms, milk plants, and milk product plants and other specified functions to the duties of the Division of Food Safety within the department; amending ss. 570.548, 570.549, and 570.903, F.S.; conforming references to changes made by the act; requesting the Division of Statutory Revision to prepare a reviser's bill making conforming statutory changes; amending s. 601.04, F.S.; revising the number of members on the Florida Citrus Commission; providing for the termination of the terms of members appointed before a specified date and for appointment of members by the Governor; amending s. 601.09, F.S.; revising the composition of the citrus districts; amending s. 601.10, F.S.; providing for the appointment of an executive director of the Department of Citrus and for confirmation by the Senate; providing a term of office; specifying the work week for employees of the Department of Citrus; providing for a reduction in salary for an employee who chooses to work less than the required weekly period; amending s. 601.15, F.S., relating to an excise tax levied and imposed upon each standard-packed box of citrus fruit grown and placed into the primary channel of trade; providing for certain tax rates to be levied; repealing s. 681.102(7), F.S., relating to the definition of the term "division"; amending ss. 681.103, 681.108, 681.109, 681.1095, 681.1096, 681.110, 681.112, 681.114, 681.117, and 681.118, F.S.; providing for the Department of Legal Affairs, rather than the Division of Consumer Services of the Department of Agriculture and Consumer Services, to enforce the state Lemon Law; consolidating enforcement duties under the Motor Vehicle Warrant Enforcement Act

within the Department of Legal Affairs; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (2) of section 20.14, Florida Statutes, is amended to read:

20.14 Department of Agriculture and Consumer Services.—There is created a Department of Agriculture and Consumer Services.

(2) The following divisions of the Department of Agriculture and Consumer Services are established:

- (a) Administration.
- (b) Agricultural Environmental Services.
- (c) Animal Industry.
- (d) Aquaculture.
- (e) Consumer Services.
- (f) ~~Dairy Industry.~~
- (f)(g) Food Safety.
- (g)(h) Florida Forest Service ~~Forestry.~~
- (h)(i) Fruit and Vegetables.
- (i)(j) Licensing.
- (j)(k) Marketing and Development.
- (k)(l) Plant Industry.
- (l)(m) Standards.

Section 2. Section 320.90, Florida Statutes, is amended to read:

320.90 Notification of consumer's rights.—The department shall develop a motor vehicle consumer's rights pamphlet which shall be distributed free of charge by the Department of Legal Affairs ~~Agriculture and Consumer Services~~ to the motor vehicle owner upon request. Such pamphlet must contain information relating to odometer fraud and provide a summary of the rights and remedies available to all purchasers of motor vehicles.

Section 3. Subsection (8) of section 501.160, Florida Statutes, is amended to read:

501.160 Rental or sale of essential commodities during a declared state of emergency; prohibition against unconscionable prices.—

(8) Any violation of this section may be enforced by the ~~Department of Agriculture and Consumer Services~~, the office of the state attorney, or the Department of Legal Affairs.

Section 4. For the purpose of incorporating the amendment made by this act to section 570.29, Florida Statutes, in a reference thereto, section 570.18, Florida Statutes, is reenacted to read:

570.18 Organization of departmental work.—In the assignment of functions to the 12 divisions of the department created in s. 570.29, the department shall retain within the Division of Administration, in addition to executive functions, those powers and duties enumerated in s. 570.30. The department shall organize the work of the other 11 divisions in such a way as to secure maximum efficiency in the conduct of the department. The divisions created in s. 570.29 are solely to make possible the definite placing of responsibility. The department shall be conducted as a unit in which every employee, including each division director, is assigned a definite workload, and there shall exist between division directors a spirit of cooperative effort to accomplish the work of the department.

Section 5. Subsection (2) of section 570.20, Florida Statutes, is amended to read:

570.20 General Inspection Trust Fund.—

(2) ~~For the 2010-2011 fiscal year only and~~ Notwithstanding any other provision of law to the contrary, ~~in addition to the spending authorized in subsection (1),~~ moneys in the General Inspection Trust Fund may be appropriated for programs operated by the department which are related to the programs authorized by this chapter in addition to the spending authorized in subsection (1). ~~This subsection expires July 1, 2011.~~

Section 6. Section 570.29, Florida Statutes, is amended to read:

570.29 Departmental divisions.—The department shall include the following divisions:

- (1) Administration.
- (2) Agricultural Environmental Services.
- (3) Animal Industry.
- (4) Aquaculture.
- (5) Consumer Services.
- ~~(6) Dairy Industry.~~

- (6)(7) Food Safety.
- (7)(8) Florida Forest Service Forestry.
- (8)(9) Fruit and Vegetables.
- (9) Licensing.
- (10) Marketing and Development.
- (11) Plant Industry.
- (12) Standards.

Section 7. Sections 570.40 and 570.41, Florida Statutes, are repealed.

Section 8. Subsections (6) and (7) are added to section 570.50, Florida Statutes, to read:

570.50 Division of Food Safety; powers and duties.—The duties of the Division of Food Safety include, but are not limited to:

(6) Inspecting dairy farms of the state and enforcing those provisions of chapter 502 as are authorized by the department relating to the supervision of milking operations and the rules adopted pursuant to such law.

(7) Inspecting milk plants, milk product plants, and plants engaged in the manufacture and distribution of frozen desserts and frozen dessert mixes; analyzing and testing samples of milk, milk products, frozen desserts, and frozen dessert mixes which are collected by the division; and enforcing those provisions of chapter 502 or chapter 503 as are authorized by the department.

Section 9. Section 570.548, Florida Statutes, is amended to read:

570.548 ~~Florida Forest Service Division of Forestry~~; powers and duties. The duties of the ~~Florida Forest Service Division of Forestry~~ include, but are not limited to, administering and enforcing those powers and responsibilities of the ~~Florida Forest Service division~~ prescribed in chapters 589, 590, and 591 and the rules adopted pursuant thereto and in other forest fire, forest protection, and forest management laws of this state.

Section 10. Section 570.549, Florida Statutes, is amended to read:

570.549 Director; duties.—

(1) The director of the ~~Florida Forest Service Division of Forestry~~ shall be appointed by the commissioner and shall serve at the commissioner's pleasure.

(2) It shall be the duty of the director of ~~the Florida Forest Service this division~~ to direct and supervise the overall operation of the ~~Florida Forest~~

Service division and to exercise such other powers and duties as authorized by the department.

Section 11. Subsection (1) of section 570.903, Florida Statutes, is amended to read:

570.903 Direct-support organization.—

(1) When the Legislature authorizes the establishment of a direct-support organization to provide assistance for the museums, the Florida Agriculture in the Classroom Program, the Florida State Collection of Arthropods, the Friends of the Florida State Forests Program of the Florida Forest Service Division of Forestry, and the Forestry Arson Alert Program, and other programs of the department, the following provisions shall govern the creation, use, powers, and duties of the direct-support organization.

(a) The department shall enter into a memorandum or letter of agreement with the direct-support organization, which shall specify the approval of the department, the powers and duties of the direct-support organization, and rules with which the direct-support organization shall comply.

(b) The department may permit, without charge, appropriate use of property, facilities, and personnel of the department by a direct-support organization, subject to the provisions of ss. 570.902 and 570.903. The use shall be directly in keeping with the approved purposes of the direct-support organization and shall not be made at times or places that would unreasonably interfere with opportunities for the general public to use department facilities for established purposes.

(c) The department shall prescribe by contract or by rule conditions with which a direct-support organization shall comply in order to use property, facilities, or personnel of the department or museum. Such rules shall provide for budget and audit review and oversight by the department.

(d) The department shall not permit the use of property, facilities, or personnel of the museum, department, or designated program by a direct-support organization which does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

Section 12. The Division of Statutory Revision is requested to prepare a reviser's bill for introduction at a subsequent session of the Legislature which replaces all statutory references to the Division of Forestry with the term "Florida Forest Service."

Section 13. Subsection (1), paragraph (a) of subsection (2), and subsection (4) of section 601.04, Florida Statutes, are amended to read:

601.04 Florida Citrus Commission; creation and membership.—

(1)(a) There is hereby created and established within the Department of Citrus a board to be known and designated as the “Florida Citrus Commission” to be composed of nine ~~12~~ practical citrus fruit persons who are resident citizens of the state, each of whom is and has been actively engaged in growing, growing and shipping, or growing and processing of citrus fruit in the state for a period of at least 5 years immediately prior to appointment to the said commission and has, during said period, derived a major portion of her or his income therefrom or, during said time, has been the owner of, member of, officer of, or paid employee of a corporation, firm, or partnership which has, during said time, derived the major portion of its income from the growing, growing and shipping, or growing and processing of citrus fruit.

(b) ~~Six~~ Six ~~Seven~~ members of the commission shall be designated as grower members and shall be primarily engaged in the growing of citrus fruit as an individual owner; as the owner of, or as stockholder of, a corporation; or as a member of a firm or partnership primarily engaged in citrus growing. None of such members shall receive any compensation from any licensed citrus fruit dealer or handler, as defined in s. 601.03, other than gift fruit shippers, but any of the grower members shall not be disqualified as a member if, individually, or as the owner of, a member of, an officer of, or a stockholder of a corporation, firm, or partnership primarily engaged in citrus growing which processes, packs, and markets its own fruit and whose business is primarily not purchasing and handling fruit grown by others. ~~Three~~ Five members of the commission shall be designated as grower-handler members and shall be engaged as owners, or as paid officers or employees, of a corporation, firm, partnership, or other business unit engaged in handling citrus fruit. ~~One~~ Two of such ~~three~~ five grower-handler members shall be primarily engaged in the fresh fruit business and ~~two~~ three of such ~~three~~ five grower-handler members shall be primarily engaged in the processing of citrus fruits.

(c) There shall be three members of the commission from each of the ~~three~~ four citrus districts. Each member must reside in the district from which she or he was appointed. For the purposes of this section, the residence of a member shall be the actual physical and permanent residence of the member.

(2)(a) The members of such commission shall possess the qualifications herein provided and shall be appointed by the Governor for terms of 3 years each. Appointments shall be made by February 1 preceding the commencement of the term and shall be subject to confirmation by the Senate in the following legislative session. Four members shall be appointed each year. Such members shall serve until their respective successors are appointed and qualified. The regular terms shall begin on June 1 and shall end on May 31 of the third year after such appointment. Effective July 1, 2011, the terms of all members of the commission appointed on or before May 1, 2011, are terminated and the Governor shall appoint the members of the commission in accordance with the provisions of this act.

(4) It is the intent of the Legislature that the commission be redistricted every 5 years. Redistricting shall be based on the total boxes produced from each of the ~~three~~ ~~four~~ districts during that 5-year period.

Section 14. Section 601.09, Florida Statutes, is amended to read:

601.09 Citrus districts.—For purposes of this chapter, the state is divided into three ~~four~~ districts composed of the following counties:

(1) Citrus District One: Levy, Alachua, ~~Brevard~~, Putnam, St. Johns, St. Lucie, Flagler, Indian River, Marion, Citrus, ~~Sumter~~, Lake, Seminole, Orange, Okeechobee, Hernando, Pasco, Pinellas, Hillsborough, Polk, Volusia, and Osceola Counties.

(2) Citrus District Two: Manatee, Hardee, DeSoto, Highlands, Sarasota, Charlotte, Lee, Collier, and Glades ~~Monroe~~ Counties.

(3) Citrus District Three: Charlotte, Citrus, Collier, Hernando, Hendry, Hillsborough, Lake, Lee, Manatee, Monroe, Volusia, ~~Brevard~~, ~~Indian River~~, ~~St. Lucie~~, Martin, Pasco, Palm Beach, Pinellas, Sarasota, ~~Sumter~~, Broward, and Miami-Dade Counties.

~~(4) Citrus District Four: Highlands, Okeechobee, Glades, and Hendry Counties.~~

Section 15. Subsection (3) of section 601.10, Florida Statutes, is amended to read:

601.10 Powers of the Department of Citrus.—The Department of Citrus shall have and shall exercise such general and specific powers as are delegated to it by this chapter and other statutes of the state, which powers shall include, but shall not be confined to, the following:

(3) To employ and, at its pleasure, discharge an executive director, ~~a secretary, and such attorneys, clerks, and employees~~ as it deems necessary and to outline his or her ~~their~~ powers and duties and fix his or her ~~their~~ compensation.

(a) The executive director of the department shall be appointed by a majority vote of the commission for a term of 4 years, except for the initial term, and the executive director shall be subject to confirmation by the Senate in the legislative session following appointment.

1. The initial term of the executive director ends June 30, 2011, and each subsequent 4-year term begins July 1, and shall be filled in the same manner as the original appointment.

2. A vacancy for the executive director shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(b) The Department of Citrus may pay, or participate in the payment of, premiums for health, accident, and life insurance for its full-time employees, pursuant to such rules or regulations as it may adopt; and such payments shall be in addition to the regular salaries of such full-time employees. The payment of such or similar benefits to its employees in foreign countries, including, but not limited to, social security, retirement, and other similar fringe benefit costs, may be in accordance with laws in effect in the country of employment, except that no benefits will be payable to employees not authorized for other state employees, as provided in the Career Service System.

(c) Employees of the department shall work a 5-day, 40-hour week. Unless an employee is on approved leave, an employee’s salary shall be decreased by 20 percent for each day not worked during the 5-day work week if the employee chooses to regularly work less than a 5-day work week.

Section 16. Paragraph (a) of subsection (3) of section 601.15, Florida Statutes, is amended to read:

601.15 Advertising campaign; methods of conducting; excise tax; emergency reserve fund; citrus research.—

(3)(a) There is hereby levied and imposed upon each standard-packed box of citrus fruit grown and placed into the primary channel of trade in this state an excise tax at maximum annual rates for each citrus season as determined from the tables in this paragraph and based upon the previous season’s actual statewide production as reported in the United States Department of Agriculture Citrus Crop Production Forecast as of June 1. The rates may be set at any lower rate in any year pursuant to paragraph (e).

1. The following maximum tax rates, expressed in cents per box, shall apply to grapefruit which enters the primary channel of trade for use in fresh form:

Previous season crop size (millions of boxes)	1995- 1996	1996- 1997	1997- 1998	1998- 1999	1999-2000 and thereafter
80 and greater	33	34	35	36	37
75-79.99	35	36	37	38	39
70-74.99	37	38	39	41	42
65-69.99	40	41	42	44	45
60-64.99	43	44	46	47	49
55-59.99	47	48	50	51	53
50-54.99	51	53	55	56	58
45-49.99	57	59	60	62	64
40-44.99	63	65	67	69	71
Less than 40	72	74	76	79	81

However, effective July 1, 2011, the tax rate per box on grapefruit that enters the primary channel of trade for use in fresh form may not exceed the tax rate per box in effect on May 1, 2011.

2. The following maximum tax rates, expressed in cents per box, shall apply to grapefruit which enters the primary channel of trade for use in processed forms:

Previous season crop size (millions of boxes)	1995- 1996	1996- 1997	1997- 1998	1998- 1999	1999-2000 and thereafter
80 and greater	23	24	25	25	26
75-79.99	25	25	26	27	28
70-74.99	26	27	28	29	30
65-69.99	28	29	30	31	32
60-64.99	31	32	32	33	34
55-59.99	33	34	35	36	37
50-54.99	36	38	39	40	41
45-49.99	40	41	43	44	45
40-44.99	45	46	48	49	51
Less than 40	51	53	54	56	57

However, effective July 1, 2011, the tax rate per box on grapefruit that enters the primary channel of trade for use in processed forms may not exceed the tax rate per box in effect on May 1, 2011.

3. The following maximum tax rates, expressed in cents per box, shall apply to oranges which enter the primary channel of trade for use in fresh form:

Previous season crop size (millions of boxes)	1995- 1996	1996- 1997	1997- 1998	1998- 1999	1999-2000 and thereafter
255 and greater	23	24	25	26	26
245-254.9	24	25	26	27	27
235-244.9	25	26	27	28	28
225-234.9	26	27	28	29	30
215-224.9	28	28	29	30	31
205-214.9	29	30	31	32	33
195-204.9	30	31	32	33	34
185-194.9	32	33	34	35	36
175-184.9	34	35	36	37	38
165-174.9	36	37	38	39	40
155-164.9	38	39	40	41	43

Less than 155	41	42	43	44	46
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However, effective July 1, 2011, the tax rate per box on oranges that enter the primary channel of trade for use in fresh form may not exceed the tax rate per box in effect on May 1, 2011.

4. The following maximum tax rates, expressed in cents per box, shall apply to oranges which enter the primary channel of trade for use in processed form:

Previous season crop size (millions of boxes)	1995- 1996	1996- 1997	1997- 1998	1998- 1999	1999-2000 and thereafter
255 and greater	15	16	16	17	17
245-254.9	16	16	17	17	18
235-244.9	17	17	18	18	19
225-234.9	17	18	18	19	19
215-224.9	18	19	19	20	20
205-214.9	19	20	20	21	21
195-204.9	20	21	21	22	22
185-194.9	21	22	22	23	24
175-184.9	22	23	23	24	25
165-174.9	23	24	25	26	26
155-164.9	25	26	26	27	28
Less than 155	27	27	28	29	30

However, effective July 1, 2011, the tax rate per box on oranges that enter the primary channel of trade for use in processed form may not exceed 25 cents per box.

5. The actual tax rate levied each year upon oranges which enter the primary channel of trade for use in processed form, pursuant to this paragraph, paragraph (e), and subsection (4), shall also apply in that year to tangerines and citrus hybrids regulated by the Department of Citrus which enter the primary channel of trade for use in processed form.

6. The following maximum tax rates, expressed in cents per box, shall apply to tangerines and citrus hybrids regulated by the Department of Citrus which enter the primary channel of trade for use in fresh form:

Previous season crop size (millions of boxes)	1995- 1996	1996- 1997	1997- 1998	1998- 1999	1999-2000 and thereafter
13 and greater	24	24	25	26	27

12 - 12.99	26	26	27	28	29
11 - 11.99	28	29	30	30	31
10 - 10.99	31	31	32	33	34
9 - 9.99	34	35	36	37	38
8 - 8.99	38	39	40	41	42
7 - 7.99	43	44	45	47	48
Less than 7	49	51	52	54	56

However, effective July 1, 2011, the tax rate per box on tangerines and citrus hybrids regulated by the Department of Citrus which enter the primary channel of trade for use in fresh form may not exceed the tax rate per box in effect on May 1, 2011.

Section 17. Subsection (7) of section 681.102, Florida Statutes, is repealed.

Section 18. Subsections (2) and (3) of section 681.103, Florida Statutes, are amended to read:

681.103 Duty of manufacturer to conform a motor vehicle to the warranty.—

(2) Each manufacturer shall provide to its consumers conspicuous notice of the address and phone number for its zone, district, or regional office for this state in the written warranty or owner’s manual. By January 1 of each year, each manufacturer shall forward to the department of Legal Affairs a copy of the owner’s manual and any written warranty for each make and model of motor vehicle that it sells in this state.

(3) At the time of acquisition, the manufacturer shall inform the consumer clearly and conspicuously in writing how and where to file a claim with a certified procedure if such procedure has been established by the manufacturer pursuant to s. 681.108. The nameplate manufacturer of a recreational vehicle shall, at the time of vehicle acquisition, inform the consumer clearly and conspicuously in writing how and where to file a claim with a program pursuant to s. 681.1096. The manufacturer shall provide to the dealer and, at the time of acquisition, the dealer shall provide to the consumer a written statement that explains the consumer’s rights under this chapter. The written statement shall be prepared by the department of Legal Affairs and shall contain a toll-free number for the department which ~~division that~~ the consumer can contact to obtain information regarding the consumer’s rights and obligations under this chapter or to commence arbitration. If the manufacturer obtains a signed receipt for timely delivery of sufficient quantities of this written statement to meet the dealer’s vehicle sales requirements, it shall constitute prima facie evidence of compliance with this subsection by the manufacturer. The consumer’s signed acknowledgment of receipt of materials required under this subsection shall constitute prima facie evidence of compliance by the manufacturer and dealer. The form of the acknowledgments shall be approved by the

department of Legal Affairs, and the dealer shall maintain the consumer's signed acknowledgment for 3 years.

Section 19. Subsections (1), (2), (3), (4), (5), and (8) of section 681.108, Florida Statutes, are amended to read:

681.108 Dispute-settlement procedures.—

(1) If a manufacturer has established a procedure, which the department ~~division~~ has certified as substantially complying with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and the rules adopted under this chapter, and has informed the consumer how and where to file a claim with such procedure pursuant to s. 681.103(3), the provisions of s. 681.104(2) apply to the consumer only if the consumer has first resorted to such procedure. The decisionmakers for a certified procedure shall, in rendering decisions, take into account all legal and equitable factors germane to a fair and just decision, including, but not limited to, the warranty; the rights and remedies conferred under 16 C.F.R. part 703, in effect October 1, 1983; the provisions of this chapter; and any other equitable considerations appropriate under the circumstances. Decisionmakers and staff of a procedure shall be trained in the provisions of this chapter and in 16 C.F.R. part 703, in effect October 1, 1983. In an action brought by a consumer concerning an alleged nonconformity, the decision that results from a certified procedure is admissible in evidence.

(2) A manufacturer may apply to the department ~~division~~ for certification of its procedure. After receipt and evaluation of the application, the department ~~division~~ shall certify the procedure or notify the manufacturer of any deficiencies in the application or the procedure.

(3) A certified procedure or a procedure of an applicant seeking certification shall submit to the department ~~division~~ a copy of each settlement approved by the procedure or decision made by a decisionmaker within 30 days after the settlement is reached or the decision is rendered. The decision or settlement must contain at a minimum the:

- (a) Name and address of the consumer;
- (b) Name of the manufacturer and address of the dealership from which the motor vehicle was purchased;
- (c) Date the claim was received and the location of the procedure office that handled the claim;
- (d) Relief requested by the consumer;
- (e) Name of each decisionmaker rendering the decision or person approving the settlement;
- (f) Statement of the terms of the settlement or decision;

(g) Date of the settlement or decision; and

(h) Statement of whether the decision was accepted or rejected by the consumer.

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the department ~~division~~ a copy of the annual audit required under the provisions of 16 C.F.R. part 703, in effect October 1, 1983, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

(5) The department ~~division~~ shall review each certified procedure at least annually, prepare an annual report evaluating the operation of certified procedures established by motor vehicle manufacturers and procedures of applicants seeking certification, and, for a period not to exceed 1 year, shall grant certification to, or renew certification for, those manufacturers whose procedures substantially comply with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and rules adopted under this chapter. If certification is revoked or denied, the department ~~division~~ shall state the reasons for such action. The reports and records of actions taken with respect to certification shall be public records.

(8) The department ~~division~~ shall adopt rules to implement this section.

Section 20. Subsections (1), (2), (3), (5), (6), and (7) of section 681.109, Florida Statutes, are amended to read:

681.109 Florida New Motor Vehicle Arbitration Board; dispute eligibility.—

(1) If a manufacturer has a certified procedure, a consumer claim arising during the Lemon Law rights period must be filed with the certified procedure no later than 60 days after the expiration of the Lemon Law rights period. If a decision is not rendered by the certified procedure within 40 days after ~~of~~ filing, the consumer may apply to the department ~~division~~ to have the dispute removed to the board for arbitration.

(2) If a manufacturer has a certified procedure, a consumer claim arising during the Lemon Law rights period must be filed with the certified procedure no later than 60 days after the expiration of the Lemon Law rights period. If a consumer is not satisfied with the decision or the manufacturer's compliance therewith, the consumer may apply to the department ~~division~~ to have the dispute submitted to the board for arbitration. A manufacturer may not seek review of a decision made under its procedure.

(3) If a manufacturer has no certified procedure or if a certified procedure does not have jurisdiction to resolve the dispute, a consumer may apply

directly to the department ~~division~~ to have the dispute submitted to the board for arbitration.

(5) The department ~~division~~ shall screen all requests for arbitration before the board to determine eligibility. The consumer's request for arbitration before the board shall be made on a form prescribed by the department. The department ~~division~~ shall forward to the board all disputes that the department ~~division~~ determines are potentially entitled to relief under this chapter.

(6) The department ~~division~~ may reject a dispute that it determines to be fraudulent or outside the scope of the board's authority. Any dispute deemed by the department ~~division~~ to be ineligible for arbitration by the board due to insufficient evidence may be reconsidered upon the submission of new information regarding the dispute. Following a second review, the department ~~division~~ may reject a dispute if the evidence is clearly insufficient to qualify for relief. If a ~~Any~~ dispute is ~~rejected by the department, the department shall send~~ ~~division shall be forwarded to the department and a copy shall be sent~~ by registered mail to the consumer and the manufacturer, containing a brief explanation as to the reason for rejection.

(7) If the department ~~division~~ rejects a dispute, the consumer may file a lawsuit to enforce the remedies provided under this chapter. In any civil action arising under this chapter and relating to a matter considered by the department ~~division~~, any determination made to reject a dispute is admissible in evidence.

Section 21. Subsections (1) through (6) and subsection (11) of section 681.1095, Florida Statutes, are amended to read:

681.1095 Florida New Motor Vehicle Arbitration Board; creation and function.—

(1) There is established within the department of ~~Legal Affairs~~, the Florida New Motor Vehicle Arbitration Board, consisting of members appointed by the Attorney General for an initial term of 1 year. Board members may be reappointed for additional terms of 2 years. Each board member is accountable to the Attorney General for the performance of the member's duties and is exempt from civil liability for any act or omission that ~~which~~ occurs while acting in the member's official capacity. The department of ~~Legal Affairs~~ shall defend a member in any action against the member or the board which arises from any such act or omission. The Attorney General may establish as many regions of the board as necessary to carry out the provisions of this chapter.

(2) The boards shall hear cases in various locations throughout the state so any consumer whose dispute is approved for arbitration by the department ~~division~~ may attend an arbitration hearing at a reasonably convenient location and present a dispute orally. Hearings shall be conducted by panels of three board members assigned by the department. A majority vote of the

three-member board panel shall be required to render a decision. Arbitration proceedings under this section shall be open to the public on reasonable and nondiscriminatory terms.

(3) Each region of the board shall consist of up to eight members. The members of the board shall construe and apply the provisions of this chapter, and rules adopted thereunder, in making their decisions. An administrator and a secretary shall be assigned to each board by the department of Legal Affairs. At least one member of each board must be a person with expertise in motor vehicle mechanics. A member must not be employed by a manufacturer or a franchised motor vehicle dealer or be a staff member, a decisionmaker, or a consultant for a procedure. Board members shall be trained in the application of this chapter and any rules adopted under this chapter, shall be reimbursed for travel expenses pursuant to s. 112.061, and shall be compensated at a rate or wage prescribed by the Attorney General.

(4) Before filing a civil action on a matter subject to s. 681.104, the consumer must first submit the dispute to the department ~~division~~, and to the board if such dispute is deemed eligible for arbitration.

(5) Manufacturers shall submit to arbitration conducted by the board if such arbitration is requested by a consumer and the dispute is deemed eligible for arbitration by the department ~~division~~ pursuant to s. 681.109.

(6) The board shall hear the dispute within 40 days and render a decision within 60 days after the date the request for arbitration is approved. The board may continue the hearing on its own motion or upon the request of a party for good cause shown. A request for continuance by the consumer constitutes waiver of the time periods set forth in this subsection. The department of Legal Affairs, at the board's request, may investigate disputes, and may issue subpoenas for the attendance of witnesses and for the production of records, documents, and other evidence before the board. The failure of the board to hear a dispute or render a decision within the prescribed periods does not invalidate the decision.

(11) All provisions in this section and s. 681.109 pertaining to compulsory arbitration before the board, the dispute eligibility screening by the department ~~division~~, the proceedings and decisions of the board, and any appeals thereof, are exempt from the provisions of chapter 120.

Section 22. Subsections (2) and (4) of section 681.1096, Florida Statutes, are amended to read:

681.1096 RV Mediation and Arbitration Program; creation and qualifications.—

(2) Each manufacturer of a recreational vehicle involved in a dispute that is determined eligible under this chapter, including chassis and component manufacturers which separately warrant the chassis and components and which otherwise meet the definition of manufacturer set forth in s.

681.102(13) ~~681.102(14)~~, shall participate in a mediation and arbitration program that is deemed qualified by the department.

(4) The department shall monitor the program for compliance with this chapter. If the program is determined not qualified or if qualification is revoked, then disputes shall be subject to the provisions of ss. 681.109 and 681.1095. If the program is determined not qualified or if qualification is revoked as to a manufacturer, all those manufacturers potentially involved in the eligible consumer dispute shall be required to submit to arbitration conducted by the board if such arbitration is requested by a consumer and the dispute is deemed eligible for arbitration by the department ~~division~~ pursuant to s. 681.109. A consumer having a dispute involving one or more manufacturers for which the program has been determined not qualified, or for which qualification has been revoked, is not required to submit the dispute to the program irrespective of whether the program may be qualified as to some of the manufacturers potentially involved in the dispute.

Section 23. Section 681.110, Florida Statutes, is amended to read:

681.110 Compliance and disciplinary actions.—The department of ~~Legal Affairs~~ may enforce and ensure compliance with the provisions of this chapter and rules adopted thereunder, may issue subpoenas requiring the attendance of witnesses and production of evidence, and may seek relief in the circuit court to compel compliance with such subpoenas. The department of ~~Legal Affairs~~ may impose a civil penalty against a manufacturer not to exceed \$1,000 for each count or separate offense. The proceeds from the fine imposed herein shall be placed in the Motor Vehicle Warranty Trust Fund in the department ~~Department of Legal Affairs~~ for implementation and enforcement of this chapter.

Section 24. Subsection (2) of section 681.112, Florida Statutes, is amended to read:

681.112 Consumer remedies.—

(2) An action brought under this chapter must be commenced within 1 year after the expiration of the Lemon Law rights period, or, if a consumer resorts to an informal dispute-settlement procedure or submits a dispute to the department ~~division~~ or board, within 1 year after the final action of the procedure, department ~~division~~, or board.

Section 25. Subsection (2) of section 681.114, Florida Statutes, is amended to read:

681.114 Resale of returned vehicles.—

(2) A person shall not knowingly lease, sell at wholesale or retail, or transfer a title to a motor vehicle returned by reason of a settlement, determination, or decision pursuant to this chapter or similar statute of another state unless the nature of the nonconformity is clearly and

conspicuously disclosed to the prospective transferee, lessee, or buyer, and the manufacturer warrants to correct such nonconformity for a term of 1 year or 12,000 miles, whichever occurs first. The department of Legal Affairs shall prescribe by rule the form, content, and procedure pertaining to such disclosure statement.

Section 26. Subsection (1) of section 681.117, Florida Statutes, is amended to read:

681.117 Fee.—

(1) A \$2 fee shall be collected by a motor vehicle dealer, or by a person engaged in the business of leasing motor vehicles, from the consumer at the consummation of the sale of a motor vehicle or at the time of entry into a lease agreement for a motor vehicle. Such fees shall be remitted to the county tax collector or private tag agency acting as agent for the Department of Revenue. If the purchaser or lessee removes the motor vehicle from the state for titling and registration outside this state, the fee shall be remitted to the Department of Revenue. All fees, less the cost of administration, shall be transferred monthly to the department of Legal Affairs for deposit into the Motor Vehicle Warranty Trust Fund. ~~The Department of Legal Affairs shall distribute monthly an amount not exceeding one-fourth of the fees received to the Division of Consumer Services of the Department of Agriculture and Consumer Services to carry out the provisions of ss. 681.108 and 681.109. The Department of Legal Affairs shall contract with the Division of Consumer Services for payment of services performed by the division pursuant to ss. 681.108 and 681.109.~~

Section 27. Section 681.118, Florida Statutes, is amended to read:

681.118 Rulemaking authority.—~~The department of Legal Affairs shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.~~

Section 28. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 2011.

Filed in Office Secretary of State May 26, 2011.