

CHAPTER 2012-67

Committee Substitute for Committee Substitute for House Bill No. 749

An act relating to consumer services; amending s. 20.14, F.S.; deleting provisions establishing the Division of Standards within the Department of Agriculture and Consumer Services; repealing s. 366.85, F.S., relating to responsibilities of the department for compliance with certain federal requirements related to consumer conciliatory conferences and energy conservation products, services, and loans; amending s. 472.005, F.S.; redefining the term “license” and defining the terms “consumer member” and “licensee” for purposes of provisions governing surveyors and mappers; amending s. 472.006, F.S.; directing the Department of Agriculture and Consumer Services to work cooperatively with the Department of Revenue to implement an automated method of disclosing information related to licensees; authorizing the Department of Agriculture and Consumer Services to suspend or deny the license of any licensee found not to be in compliance with a support order, subpoena, order to show cause, or written agreement; providing for reinstatement of a denied or suspended license; relieving the department of certain liability associated with the denial or suspension of a license; amending s. 472.011, F.S.; authorizing the department to waive license renewal fees for land surveyors and mappers under certain circumstances; authorizing the collection of an existing special assessment from inactive and delinquent licensees; amending s. 472.0131, F.S., relating to examinations; making technical changes; amending s. 472.015, F.S.; authorizing the department to require land surveyors or mappers to submit their social security numbers when applying for initial licensure or license renewal; providing conditions under which an application is deemed received; providing conditions under which the department may issue a license by endorsement; requiring an applicant to provide his or her social security number as required pursuant to federal law; specifying how a social security number may be used; amending s. 472.018, F.S., relating to continuing education; making technical changes; requiring that continuing education providers electronically provide certain information to the department; providing timeframes for reporting; requiring that the department establish a system to monitor licensee compliance with continuing education requirements; defining the term “monitor”; authorizing the department to refuse to renew a license until the applicant satisfies continuing education requirements; authorizing the department or board to impose additional penalties against applicants who fail to satisfy additional requirements; amending s. 472.0202, F.S.; conforming a cross-reference; amending s. 472.0203, F.S.; providing for license renewal notification by the department to be sent electronically to the licensee’s last known e-mail address; amending s. 472.025, F.S.; providing that a professional surveyor or mapper whose license is revoked or suspended must return his or her seal to the executive director of the board, rather

than to the secretary; creating s. 472.0337, F.S.; authorizing the department to administer oaths, take depositions, make inspections, issue and serve subpoenas and other process, and compel the attendance of witnesses and production of certain documents; providing for challenges to and enforcement of subpoenas and orders; amending s. 472.0351, F.S.; revising grounds for discipline; eliminating certain actions by a licensee which are grounds for disciplinary action; specifying what constitutes an action against a license in another state, territory, or country; specifying that the board may enter an order against a surveyor or mapper who committed certain violations before obtaining a license; authorizing the board to require corrective action; prohibiting the department from issuing to or renewing the license of a person or business entity that has been assessed a fine, interest, costs, or attorney fees associated with an investigation or prosecution until the person pays them in full or complies with or satisfies all terms and conditions of the final order; amending s. 493.6105, F.S.; authorizing the Department of Agriculture and Consumer Services to waive firearms training requirements for the initial licensure of private investigative, private security, or repossession services under certain circumstances; amending s. 493.6113, F.S.; authorizing the department to waive firearms training requirements for license renewal of private investigative, private security, and repossession services under certain circumstances; amending s. 493.6118, F.S.; providing for disciplinary action to be taken against certain additional license classes and schools or training facilities for private investigators and private security and repossession services; amending s. 493.6120, F.S.; providing for penalty provisions to apply to certain additional license classes and schools or training facilities for private investigators and private security and repossession services; amending s. 501.015, F.S., relating to the regulation of health studios; substituting the term "local business tax receipt" for the term "local occupational license"; amending s. 501.017, F.S.; making technical changes; clarifying that certain notice be provided in a health studio contract in at least 10-point boldface type; amending s. 501.059, F.S.; deleting requirement that telephone subscribers pay an initial listing charge for including their telephone numbers on the state's no sales solicitation calls listing; specifying the period that a subscriber's listing remains active; requiring the department to include certain listings from a national database on the state's listing; authorizing the department to impose administrative fines for violations; specifying that administrative proceedings are subject to the Administrative Procedure Act; requiring telecommunications companies to inform their customers of certain telephone solicitation requirements; deleting requirement that the Florida Public Service Commission adopt certain rules; amending s. 501.605, F.S.; providing that an applicant for a commercial telephone seller license may provide other valid forms of identification in lieu of a valid driver license number; removing the requirement that the applicant provide his or her social security number on the application; amending s. 501.607, F.S.; providing that an applicant for a telemarketing salesperson's license may provide other valid forms of identification in lieu of a driver license number; amending s. 501.911, F.S.; revising provisions for

administration of the Antifreeze Act of 1978, to conform; amending s. 501.913, F.S.; requiring the registrant of a brand of antifreeze to assume full responsibility for the registration; requiring that a registrant of a brand of antifreeze not in production for distribution in this state must submit a notarized affidavit attesting to specified information; requiring that a certain sample size of each brand of antifreeze accompany the application for registration; amending s. 507.04, F.S.; requiring that the Department of Agriculture and Consumer Services be notified at least 10 days before any changes are made in the insurance coverage of a household moving service; amending s. 525.07, F.S.; revising required contents of seal clasps applied by meter mechanics after repair and adjustment of petroleum fuel measuring devices; amending s. 526.143, F.S.; authorizing the department to temporarily waive certain requirements for generators at retail motor fuel outlets which are used in preparation or response to an emergency or major disaster in another state; amending s. 526.50, F.S., relating to the sale of brake fluid; defining the terms “brand” and “formula”; amending s. 526.51, F.S.; conforming terminology; providing criteria for reregistering a previously registered brand and formula combination of brake fluid; providing for a fine for late submission of the application for reregistration and required materials; requiring a registrant to submit a notarized affidavit attesting that specified conditions have been satisfied if a registered brand and formula combination is not in production for distribution in this state; amending s. 526.52, F.S.; providing alternative criteria under which a brand of brake fluid may satisfy branding requirements; amending s. 526.53, F.S.; conforming terminology; requiring that stop-sale orders be served by the department on the owner of the brand name, the distributor, or other entity responsible for selling or distributing the product; providing that the department’s representative, with the consent of the department, may dispose of certain unregistered brake fluid; amending s. 526.55, F.S.; replacing criminal sanctions with administrative and monetary sanctions for violations of laws regulating the sale of brake fluid; amending s. 539.001, F.S.; eliminating the requirement that a pawnshop provide the Department of Agriculture and Consumer Services notice of a change in its location by certified or registered mail; amending s. 559.805, F.S.; eliminating a requirement that sellers of business opportunities provide the department with the social security numbers of their independent agents; amending s. 559.904, F.S., relating to the regulation of motor vehicle repair shops; substituting the term “business tax receipt” for the term “occupational license”; repealing s. 559.922, F.S., relating to the use of motor vehicle repair shop registration fees to provide financial assistance to motor vehicle repair shop employees who undertake certain technical training or courses; amending s. 559.928, F.S., relating to the regulation of sellers of travel; substituting the term “business tax receipt” for the term “occupational license”; eliminating a requirement that an independent travel agent provide his or her social security number to the department; amending s. 559.9285, F.S.; conforming a cross-reference; amending s. 559.935, F.S., relating to an exemption from regulation provided for certain sellers of travel; substituting the term “business tax receipt” for the

term “occupational license”; amending s. 570.29, F.S., relating to departmental divisions; conforming terminology; repealing ss. 570.46 and 570.47, F.S., relating to the powers and duties of the Division of Standards and the qualifications and duties of the director of the division; amending s. 570.544, F.S.; revising the powers and duties of the director of the Division of Consumer Services; amending s. 616.242, F.S.; removing an obsolete reference to the Bureau of Fair Rides Inspection; providing an effective date.

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

Section 1. Paragraph (1) of 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:

(1) ~~Standards.~~

Section 2. Section 366.85, Florida Statutes, is repealed.

Section 3. Subsection (7) of section 472.005, Florida Statutes, is amended, and subsections (15) and (16) are added to that section, to read:

472.005 Definitions.—As used in ss. 472.001-472.037:

(7) The term “license” means a registration, certificate, or license issued by the department pursuant to this chapter ~~the registration of surveyors and mappers or the certification of businesses to practice surveying and mapping in this state.~~

(15) “Consumer member” means a person appointed to serve on the board who is not, and never has been, a professional surveyor or mapper in any jurisdiction or a member of any closely related profession regulated by the board.

(16) “Licensee” means any person or business entity that has been issued, pursuant to this chapter, a registration, certificate, or license by the department.

Section 4. Subsection (12) is added to section 472.006, Florida Statutes, to read:

472.006 Department; powers and duties.—The department shall:

(12) Work cooperatively with the Department of Revenue to implement an automated method for periodically disclosing information relating to current licensees to the Department of Revenue in order to further the public

policy of reducing the state's financial burden as a result of family desertion and nonsupport of dependent children as provided in s. 409.2551. The department shall, if directed by the court or the Department of Revenue, pursuant to s. 409.2598, suspend or deny the license of any licensee who is found to not be in compliance with a support order, subpoena, order to show cause, or written agreement entered into by the licensee with the Department of Revenue. The department shall issue or reinstate the license without additional charge to the licensee if notified by the court or the Department of Revenue that the licensee has complied with the terms of the support order. The department is not liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

Section 5. Subsections (1) and (12) of section 472.011, Florida Statutes, are amended to read:

472.011 Fees.—

(1) The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, recordmaking and recordkeeping, and applications for providers of continuing education. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement ss. 472.001-472.037 and the provisions of law with respect to the regulation of surveyors and mappers. If the department determines, based on estimates of available revenue collected pursuant to this section, that the General Inspection Trust Fund contains funds that exceed the amount required to cover the necessary functions of the board, the department shall, by rule, waive the license renewal fees for licensees under this chapter for a period not to exceed 2 years.

(12) The board may, by rule, assess and collect a special assessment ~~one-time fee~~ from each active, inactive, and delinquent ~~each voluntary inactive~~ licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of this profession as required in this subsection.

Section 6. Subsection (3) of section 472.0131, Florida Statutes, is amended to read:

472.0131 Examinations; development; administration.—

(3) Except for national examinations approved and administered pursuant to paragraph (1)(d), the department shall provide procedures for applicants who have taken and failed an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly on his or her last examination or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the

department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of his or her examination grades.

Section 7. Subsection (1) and paragraph (b) of subsection (6) of section 472.015, Florida Statutes, are amended, and subsection (15) is added to that section, to read:

472.015 Licensure.—

(1) Notwithstanding any other law, the department is the sole authority for determining the contents of any documents to be submitted for initial licensure and licensure renewal. ~~The Such~~ documents may contain information including, as appropriate: demographics, social security number, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, signature notarization, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, continuing education requirements, and ongoing education monitoring. ~~The applicant shall supplement his or her application may be supplemented~~ as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. An application is received for the purposes of s. 120.60 upon receipt by the department of the application, submitted in the format prescribed by the department, the application fee set by the board, and any other documentation or fee required by law or rule to be submitted with the application in order for the application to be complete.

(6)

(b) The department ~~may shall~~ not issue a license by endorsement to any applicant who is under investigation in ~~this state or any other state or any other jurisdiction another state~~ for any act that would constitute a violation of ~~this ss. 472.001-472.037 or chapter 455~~ until ~~such time as~~ the investigation is complete and disciplinary proceedings have been terminated.

(15) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each person applying for initial licensure or license renewal shall provide his or her social security number. Use of social security numbers obtained through this requirement is limited to the purpose of administering the Title IV-D program for child support enforcement, use by the department, and use as otherwise provided by law.

Section 8. Subsection (1) of section 472.018, Florida Statutes, is amended, and subsections (13), (14), and (15) are added to that section, to read:

472.018 Continuing education.—The department may not renew a license until the licensee submits proof satisfactory to the board that during the 2 years ~~before~~ prior to her or his application for renewal the licensee has completed at least 24 hours of continuing education.

(1) The board shall adopt rules to establish the criteria and course content for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours may ~~can~~ be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board must require that any pro bono services be approved in advance in order to receive credit for continuing education under this section. ~~The board shall use the standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services in determining indigency.~~ The board may adopt rules that may provide for approval by the board that a part of the continuing education hours may ~~can~~ be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, ~~or the department when there is no board,~~ may adopt ~~make~~ rules to define underserved and critical need areas. The department shall adopt rules for the administration of continuing education requirements adopted by the board ~~or the department when there is no board.~~

(13) Each continuing education provider shall provide to the department, in an electronic format determined by the department, information regarding the continuing education status of licensees which the department determines is necessary to carry out its duties under this chapter. After a licensee completes a course, the information must be submitted electronically by the continuing education provider to the department within 30 calendar days after completion. However, beginning on the 30th day before the renewal deadline or before the renewal date, whichever occurs sooner, the continuing education provider shall electronically report such information to the department within 10 business days after completion.

(14) The department shall establish a system to monitor licensee compliance with continuing education requirements and to determine the continuing education status of each licensee. As used in this subsection, the term “monitor” means the act of determining, for each licensee, whether the licensee is in full compliance with applicable continuing education requirements as of the date of the licensee’s application for license renewal.

(15) The department may refuse to renew a license until the licensee has satisfied all applicable continuing education requirements. This subsection does not preclude the department or board from imposing additional penalties pursuant to this chapter or rules adopted pursuant this chapter.

Section 9. Subsection (1) of section 472.0202, Florida Statutes, is amended to read:

472.0202 Inactive and delinquent status.—

(1) A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession without an active status license is in violation of this section and s. 472.0351 ~~472.033~~, and the board may impose discipline on the licensee.

Section 10. Subsection (3) is added to section 472.0203, Florida Statutes, to read:

472.0203 Renewal and cancellation notices.—

(3) Notwithstanding any other law, a licensure renewal notification required to be sent to the last known address of record may be sent by the department to the licensee by electronic means if the licensee has provided an e-mail address to the department.

Section 11. Subsection (2) of section 472.025, Florida Statutes, is amended to read:

472.025 Seals.—

(2) It is unlawful for ~~a any~~ person to stamp, seal, or digitally sign ~~a any~~ document with a seal or digital signature after his or her certificate of registration has expired or been revoked or suspended, unless such certificate of registration has been reinstated or reissued. When ~~a the~~ certificate of registration ~~of a registrant~~ has been revoked or suspended by the board, the registrant shall, within ~~a period of~~ 30 days after the revocation or suspension has become effective, surrender his or her seal to the executive director secretary of the board and confirm to the executive director secretary the cancellation of the registrant's digital signature in accordance with ss. 668.001-668.006. ~~If In the event~~ the registrant's certificate has been suspended for a period of time, his or her seal shall be returned to him or her upon expiration of the suspension period.

Section 12. Section 472.0337, Florida Statutes, is created to read:

472.0337 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of an investigation or proceeding conducted by the department, the department shall administer oaths, take depositions, make inspections, issue subpoenas which must be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. Challenges to, and enforcement of, the subpoenas and orders shall be conducted as provided in s. 120.569.

Section 13. Section 472.0351, Florida Statutes, is amended to read:

472.0351 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

- (a) Violation of any provision of s. 472.031;
- (b) Attempting to procure a license to practice surveying and mapping by bribery or fraudulent misrepresentations;
- (c) Having a license to practice surveying and mapping revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for a violation that constitutes a violation under the laws of this state. The acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of charges against the license by a licensing authority is an action against the license;
- (d) Being convicted or found guilty of, or entering a plea of guilty, no contest, or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of surveying and mapping or the ability to practice surveying and mapping;
- (e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those that are signed in the capacity of a registered surveyor and mapper;
- (f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content;
- (g) Upon proof that the licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of surveying and mapping;
- (h) Failing to perform a ~~any~~ statutory or legal obligation placed upon a licensed surveyor and mapper; violating a ~~any~~ provision of this chapter, a rule of the board or department, or a lawful order of the board or department ~~previously entered in a disciplinary hearing;~~ or failing to comply with a lawfully issued subpoena of the department;
- (i) Practicing on a revoked, suspended, inactive, or delinquent license;
- (j) ~~Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession;~~
- (k) ~~Intentionally violating any rule adopted by the board or the department, as appropriate;~~
- (l) ~~Having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of~~

licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law;

~~(j)(m)~~ Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee;

~~(k)(n)~~ Failing to report to the department any person who the licensee knows is in violation of this chapter or the rules of the department or the board;

~~(l)(o)~~ Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice surveying and mapping contrary to this chapter or the rules of the department or the board;

~~(m)(p)~~ Making deceptive, untrue, or fraudulent representations in or related to the practice of professional surveying or mapping a profession or employing a trick or scheme in or related to the practice of professional surveying or mapping a profession;

~~(n)(q)~~ Exercising influence on the client for the purpose of financial gain of the licensee or a third party;

~~(o)(r)~~ Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform;

~~(p)(s)~~ Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them; or

~~(t)~~ ~~Violating this chapter, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department; or~~

~~(q)(u)~~ Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(2) If ~~When~~ the board finds a any surveyor or mapper guilty of any of the grounds set forth in subsection (1) or a violation of this chapter which occurred before obtaining a license, the board it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure, or approval of an application for licensure with restrictions.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the surveyor or mapper on probation for a period of time and subject to such conditions as the board may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(f) Restriction of the authorized scope of practice by the surveyor or mapper.

(g) Corrective action.

(3) The department shall reissue the license of a disciplined surveyor or mapper upon certification by the board that he or she has complied with all of the terms and conditions set forth in the final order.

(4)(a) In addition to any other discipline imposed pursuant to this section, the board may assess costs and attorney attorneys fees related to the investigation and prosecution of the case.

(b) In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, ~~which may such reasonable time to be prescribed in the rules of the board or in the order assessing such fines or costs,~~ the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(c) The department may not issue to or renew the license of any person or business entity against which the board has assessed a fine, interest, costs, or attorney fees associated with an investigation and prosecution until the person or business entity has paid the full amount due or complies with or satisfies all terms and conditions of the final order.

~~(5) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this chapter, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.~~

~~(5)(6)~~ If the board determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish, by rule, requirements for reapplication by applicants whose licenses have been permanently revoked. Such requirements may include, but are ~~shall not be~~ limited to, satisfying current requirements for an initial license.

Section 14. Subsection (5) of section 493.6105, Florida Statutes, is amended to read:

493.6105 Initial application for license.—

(5) In addition to the requirements outlined in subsection (3), an applicant for a Class “G” license must satisfy minimum training criteria for firearms established by rule of the department, which training criteria includes, but is not limited to, 28 hours of range and classroom training taught and administered by a Class “K” licensee; however, no more than 8 hours of such training shall consist of range training. The department may waive the foregoing firearms training requirement if:

(a) The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission or has successfully completed the training required for certification within the last 12 months.

(b) The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency.

(c) The applicant submits a valid firearm certificate among those specified in paragraph (6)(a). If the applicant submits proof that he or she is an active law enforcement officer currently certified under the Criminal Justice Standards and Training Commission or has completed the training required for that certification within the last 12 months, or if the applicant submits one of the certificates specified in paragraph (6)(a), the department may waive the foregoing firearms training requirement.

Section 15. Paragraph (b) of subsection (3) of section 493.6113, Florida Statutes, is amended to read:

493.6113 Renewal application for licensure.—

(3) Each licensee is responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the prescribed license fee.

(b) Each Class “G” licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms recertification training taught by a Class “K” licensee and has complied with such other health and training requirements which the department may adopt by rule. If proof of a minimum of 4 hours of annual firearms recertification training cannot be provided, the renewal applicant shall complete the minimum number of hours of range and classroom training required at the time of initial licensure. The department may waive the foregoing firearms training requirement if:

1. The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous 2 years of the licensure period.

2. The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous 2 years of the licensure period.

3. The applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a) and provides proof of having completed requalification training during the previous 2 years of the licensure period.

Section 16. Subsection (6) of section 493.6118, Florida Statutes, is amended to read:

493.6118 Grounds for disciplinary action.—

(6) The agency or Class “DS” or “RS” license and the approval or license of each officer, partner, or owner of the agency, school, or training facility are automatically suspended upon entry of a final order imposing an administrative fine against the agency, school, or training facility, until the fine is paid, if 30 calendar days have elapsed since the entry of the final order. All owners and corporate or agency officers or partners are jointly and severally liable for agency fines levied against the agency, school, or training facility. Neither The agency or Class “DS” or “RS” license or the approval or license of any officer, partner, or owner of the agency, school, or training facility may not be renewed, and nor may an application may not be approved, if the owner, licensee, or applicant is liable for an outstanding administrative fine imposed under this chapter. An individual’s approval or license becomes automatically suspended if a fine imposed against the individual or his or her agency is not paid within 30 days after the date of the final order, and remains suspended until the fine is paid. Notwithstanding the provisions of this subsection, an individual’s approval or license may not be suspended and nor may an application may not be denied if when the licensee or the applicant has an appeal from a final order pending in any appellate court.

Section 17. Subsection (4) of section 493.6120, Florida Statutes, is amended to read:

493.6120 Violations; penalty.—

(4) A Any person who was an owner, officer, partner, or manager of a licensed agency or a Class “DS” or “RS” school or training facility at the time of any activity that is the basis for revocation of the agency or branch office license or the school or training facility license and who knew or should have known of the activity, shall have his or her personal licenses or approval suspended for 3 years and may not have any financial interest in or be

employed in any capacity by a licensed agency or a school or training facility during the period of suspension.

Section 18. Subsection (7) of section 501.015, Florida Statutes, is amended to read:

501.015 Health studios; registration requirements and fees.—Each health studio shall:

(7) ~~A~~ Any person applying for or renewing a local business tax receipt ~~occupational license~~ to engage in business as a health studio must exhibit an active registration certificate from the Department of Agriculture and Consumer Services before the local business tax receipt ~~occupational license~~ may be issued or reissued.

Section 19. Subsection (1) of section 501.017, Florida Statutes, is amended to read:

501.017 Health studios; contracts.—

(1) ~~Each~~ Every contract for the sale of future health studio services which is paid for in advance or which the buyer agrees to pay for in future installment payments shall be in writing and shall contain, contractual provisions to the contrary notwithstanding, in immediate proximity to the space reserved in the contract for the signature of the buyer, and in at least 10-point boldfaced type, language substantially equivalent to the following:

(a) A provision for the penalty-free cancellation of the contract within 3 days, exclusive of holidays and weekends, of its making, upon the mailing or delivery of written notice to the health studio, and refund upon such notice of all moneys paid under the contract, except that the health studio may retain an amount computed by dividing the number of complete days in the contract term or, if appropriate, the number of occasions health studio services are to be rendered into the total contract price and multiplying the result by the number of complete days that have passed since the making of the contract or, if appropriate, by the number of occasions that health studio services have been rendered. A refund shall be issued within 30 days after receipt of the notice of cancellation made within the 3-day provision.

(b)1. A provision for the cancellation and refund of the contract if the contracting business location of the health studio goes out of business, or moves its facilities more than 5 driving miles from the business location designated in the ~~such~~ contract and fails to provide, within 30 days, a facility of equal quality located within 5 driving miles of the business location designated in the ~~such~~ contract at no additional cost to the buyer.

2. A provision that notice of intent to cancel by the buyer shall be given in writing to the health studio. ~~The~~ Such a notice of cancellation from the consumer terminates ~~shall also terminate~~ automatically the consumer's obligation to any entity to whom the health studio has subrogated or assigned the consumer's contract. If the health studio wishes to enforce the

such contract after receipt of the notice ~~such showing~~, it may request the department to determine the sufficiency of the notice ~~showing~~.

3. A provision that if the department determines that a refund is due the buyer, the refund shall be an amount computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term. The business location of a health studio may ~~shall~~ not be deemed out of business when temporarily closed for repair and renovation of the premises:

a. Upon sale, for not more than 14 consecutive days; or

b. During ownership, for not more than 7 consecutive days and not more than two periods of 7 consecutive days in any calendar year.

A refund shall be issued within 30 days after receipt of the notice of cancellation made pursuant to this paragraph.

(c) A provision in the disclosure statement advising the buyer to contact the department for information within 60 days should the health studio go out of business.

(d) A provision for the cancellation of the contract if the buyer dies or becomes physically unable to avail himself or herself of a substantial portion of those services which he or she used from the commencement of the contract until the time of disability, with refund of funds paid or accepted in payment of the contract in an amount computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term. The contract may require a buyer or the buyer's estate seeking relief under this paragraph to provide proof of disability or death. A physical disability sufficient to warrant cancellation of the contract by the buyer is ~~shall be~~ established if the buyer furnishes to the health studio a certification of such disability by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 to the extent the diagnosis or treatment of the disability is within the physician's scope of practice. A refund shall be issued within 30 days after receipt of the notice of cancellation made pursuant to this paragraph.

(e) A provision that the initial contract will not be for a period in excess of 36 months, and thereafter shall only be renewable annually. A ~~Such~~ renewal contract ~~contracts~~ may not be executed and the fee therefor paid until 60 days or less before the previous ~~preceeding~~ contract expires.

(f) A provision that if the health studio requires a buyer to furnish identification upon entry to the facility and as a condition of using the services of the health studio, the health studio shall provide the buyer with the means of such identification.

Section 20. Paragraphs (e) through (i) of subsection (1) of section 501.059, Florida Statutes, are redesignated as paragraphs (d) through (h),

respectively, and present paragraph (d) of subsection (1) and subsections (3), (8), and (10) of that section are amended to read:

501.059 Telephone solicitation.—

(1) As used in this section:

~~(d) “Commission” means the Florida Public Service Commission.~~

~~(3)(a) If any residential, mobile, or telephonic paging device telephone subscriber notifies the department of his or her desire desiring to be placed on a “no sales solicitation calls” listing indicating that the subscriber does not wish to receive unsolicited telephonic sales calls, may notify the department shall place the subscriber and be placed on that listing for 5 years upon receipt by the department of a \$10 initial listing charge. This listing shall be renewed by the department annually for each consumer upon receipt of a renewal notice and a \$5 assessment.~~

(b) The department shall update its “no sales solicitation calls” listing upon receipt of initial consumer subscriptions or renewals and provide this listing for a fee to telephone solicitors upon request.

(c) All fees imposed pursuant to this section shall be deposited in the General Inspection Trust Fund for the administration of this section.

~~(d) If the Federal Trade Commission, pursuant to 15 U.S.C. s. 6102(a), establishes a national database that lists the telephone numbers of subscribers who object to receiving telephone solicitations, the department shall include those listings from the national database which relate to Florida in the listing established under this section.~~

(8)(a) The department shall investigate any complaints received concerning violations of this section. If, after investigating any complaint, the department finds that there has been a violation of this section, the department or the Department of Legal Affairs may bring an action to impose a civil penalty and to seek other relief, including injunctive relief, as the court deems appropriate against the telephone solicitor. The civil penalty may ~~shall~~ not exceed \$10,000 per violation and shall be deposited in the General Inspection Trust Fund if the action or proceeding was brought by the department, or the Legal Affairs Revolving Trust Fund if the action or proceeding was brought by the Department of Legal Affairs. This civil penalty may be recovered in any action brought under this part by the department, or the department may terminate any investigation or action upon agreement by the person to pay a stipulated civil penalty. The department or the court may waive any civil penalty if the person has previously made full restitution or reimbursement or has paid actual damages to the consumers who have been injured by the violation.

(b) The department may, as an alternative to the civil penalties provided in paragraph (a), impose an administrative fine not to exceed \$1,000 for each act or omission that constitutes a violation of this section. An administrative

proceeding that could result in the entry of an order imposing an administrative penalty must be conducted in accordance with chapter 120.

(10) ~~The commission shall by rule ensure that~~ Telecommunications companies shall inform their customers of the provisions of this section. The notification may be made by:

- (a) Annual inserts in the billing statements mailed to customers; and
- (b) Conspicuous publication of the notice in the consumer information pages of the local telephone directories.

Section 21. Paragraphs (a) and (1) of subsection (2) of section 501.605, Florida Statutes, are amended to read:

501.605 Licensure of commercial telephone sellers.—

(2) An applicant for a license as a commercial telephone seller must submit to the department, in such form as it prescribes, a written application for the license. The application must set forth the following information:

(a) The true name, date of birth, ~~driver~~ driver's license number or other valid form of identification, ~~social security number~~, and home address of the applicant, including each name under which he or she intends to do business.

(1) The true name, current home address, date of birth, ~~social security number~~, and all other names by which known, or previously known, of each:

- 1. Principal officer, director, trustee, shareholder, owner, or partner of the applicant, and of each other person responsible for the management of the business of the applicant.
- 2. Office manager or other person principally responsible for a location from which the applicant will do business.
- 3. Salesperson or other person to be employed by the applicant.

The application shall be accompanied by a copy of any: Script, outline, or presentation the applicant will require or suggest a salesperson to use when soliciting, or, if no such document is used, a statement to that effect; sales information or literature to be provided by the applicant to a salesperson; and sales information or literature to be provided by the applicant to a purchaser in connection with any solicitation.

Section 22. Paragraph (a) of subsection (1) of section 501.607, Florida Statutes, is amended to read:

501.607 Licensure of salespersons.—

(1) An applicant for a license as a salesperson must submit to the department, in such form as it prescribes, a written application for a license. The application must set forth the following information:

(a) The true name, date of birth, driver driver's license number or other valid form of identification, ~~social security number~~, and home address of the applicant.

Section 23. Section 501.911, Florida Statutes, is amended to read:

501.911 Administration of act.—Sections 501.91-501.923 shall be administered by ~~the Division of Standards~~ of the Department of Agriculture and Consumer Services.

Section 24. Subsections (1) and (2) of section 501.913, Florida Statutes, are amended to read:

501.913 Registration.—

(1) Each brand of antifreeze to be distributed in this state shall be registered with the department before ~~prior to~~ distribution. The person whose name appears on the label, the manufacturer, or the packager shall make application to the department on forms provided by the department no later than July 1 of each year. The registrant assumes, by application to register the brand, full responsibility for the registration, quality, and quantity of the product sold, offered, or exposed for sale in this state. If a registered brand is not in production for distribution in this state and to ensure any remaining product that is still available for sale in the state is properly registered, the registrant must submit a notarized affidavit on company letterhead to the department certifying that:

(a) The stated brand is no longer in production;

(b) The stated brand will not be distributed in this state; and

(c) All existing product of the stated brand will be removed by the registrant from the state within 30 days after expiration of the registration or the registrant will reregister the brand for two subsequent registration periods.

If production resumes, the brand must be reregistered before it is distributed in this state.

(2) The completed application shall be accompanied by:

(a) Specimens or facsimiles of the label for each brand of antifreeze;

(b) An application fee of \$200 for each brand; and

(c) A properly labeled sample of between 1 and 2 gallons for each brand of antifreeze.

Section 25. Subsection (3) of section 507.04, Florida Statutes, is amended to read:

507.04 Required insurance coverages; liability limitations; valuation coverage.—

(3) INSURANCE COVERAGES.—The insurance coverages required under paragraph (1)(a) and subsection (2) must be issued by an insurance company or carrier licensed to transact business in this state under the Florida Insurance Code as designated in s. 624.01. The department shall require a mover to present a certificate of insurance of the required coverages before issuance or renewal of a registration certificate under s. 507.03. The department shall be named as a certificateholder in the certificate and must be notified at least 10 ~~30~~ days before cancellation of any changes in insurance coverage.

Section 26. Subsection (7) of section 525.07, Florida Statutes, is amended to read:

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

(7) It is unlawful for any person to break, cut, or remove any seal applied by the department to a petroleum fuel measuring device or container. If ~~When~~ it becomes necessary to repair and adjust a petroleum fuel measuring device during the absence of an inspector of the department, the seal on the meter adjustment may be broken by a person who is registered with the department as a meter mechanic. After repairs and adjustments have been made, the adjusting mechanism must immediately be resealed by the registered meter mechanic with a seal clasp bearing at least the name of ~~the company or~~ the name or initials of the registered mechanic. The registered mechanic shall immediately notify the department of this action.

Section 27. Subsection (5) of section 526.143, Florida Statutes, is amended to read:

526.143 Alternate generated power capacity for motor fuel dispensing facilities.—

(5)(a) Each corporation or other entity that owns 10 or more motor fuel retail outlets located within a single county shall maintain at least one portable generator that is capable of providing an alternate generated power source as required under subsection (2) for every 10 outlets. If an entity owns more than 10 outlets or a multiple of 10 outlets plus an additional 6 outlets, the entity must provide one additional generator to accommodate such additional outlets. Each portable generator must be stored within this state, or may be stored in another state if located within 250 miles of this state, and must be available for use in an affected location within 24 hours after a disaster.

(b) Each corporation or other entity that owns 10 or more motor fuel retail outlets located within a single domestic security region, as determined pursuant to s. 943.0312(1), and that does not own additional outlets located outside the domestic security region shall maintain a written document of

agreement with one or more similarly equipped entities for the use of portable generators that may be used to meet the requirements of paragraph (a) and that are located within this state but outside the affected domestic security region. The agreement may be reciprocal, may allow for payment for services rendered by the providing entity, and must guarantee the availability of the portable generators to an affected location within 24 hours after a disaster.

(c) Upon written request, the department may temporarily waive the requirements in paragraphs (a) and (b) if the generators are used in preparation for or response to an emergency or major disaster in another state. The waiver shall be in writing and include a beginning and ending date. The waiver may provide additional conditions as deemed necessary by the department. The waiver may be modified or terminated by the department if the Governor declares an emergency.

~~(d)~~(e) For purposes of this section, ownership of a motor fuel retail outlet ~~is~~ shall be the owner of record of the fuel storage systems operating at the location, as identified in the Department of Environmental Protection underground storage facilities registry pursuant to s. 376.303(1).

Section 28. Subsections (8) and (9) are added to section 526.50, Florida Statutes, to read:

526.50 Definition of terms.—As used in this part:

(8) “Brand” means the product name appearing on the label of a container of brake fluid.

(9) “Formula” means the name of the chemical mixture or composition of the brake fluid product.

Section 29. Subsections (1) and (3) of section 526.51, Florida Statutes, are 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 brand name and has complete control over the product sold thereunder in ~~this state~~ Florida, and provide the name and address of the resident agent in ~~this state~~ 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 first-time new product applications for a brand and formula combination must be accompanied by a certified report from an independent testing laboratory, setting forth the analysis of the brake fluid which shows ~~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 of brake fluid shall be submitted, in a container or containers, with labels representing exactly how the containers of brake fluid will be labeled when sold, and the sample and container shall be analyzed and inspected by the department ~~Division of Standards~~ in order that compliance with the department's specifications and labeling requirements may be verified. Upon approval of the application, the department shall register the brand name of the brake fluid and issue to the applicant a permit authorizing the registrant to sell the 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 reregister a previously registered brand and formula combination, an applicant must submit a completed application and all materials as required in this section to the department before the first day of the permit year. A brand and formula combination for which a completed application and all materials required in this section are not received before the first day of the permit year may not be registered with the department until a completed application and all materials required in this section have been received and approved. If the brand and formula combination was previously registered with the department and a fee, application, or materials required in this section are received after the first day of the permit year, To any fee not paid when due, there shall accrue a penalty of \$25 accrues, which shall be added to the renewal fee. Renewals shall will be accepted only on brake fluids that have no change in formula, composition, or brand name. Any change in formula, composition, or brand name of any brake fluid constitutes a new product that must be registered in accordance with this part.

(c) In order to ensure that any remaining product still available for sale in this state is properly registered, if a registered brand and formula combination is no longer in production for distribution in this state, the registrant must submit a notarized affidavit on company letterhead to the department certifying that:

1. The stated brand and formula combination is no longer in production;
2. The stated brand and formula combination will not be distributed in this state; and
3. All existing product of the stated brand and formula combination will be removed by the registrant from the state within 30 days after the

expiration of the registration or that the registrant will reregister the brand and formula combination for two subsequent registration periods.

If production resumes, the brand and formula combination must be reregistered before it is again distributed in this state.

(3) The department may cancel ~~or~~; refuse to issue ~~or refuse to renew~~ any registration and permit after due notice and opportunity to be heard if it finds that the brake fluid is adulterated or misbranded or that the registrant has failed to comply with the provisions of this part or the rules adopted pursuant to this section and ~~regulations promulgated thereunder.~~

Section 30. Paragraph (a) of subsection (3) of section 526.52, Florida Statutes, is amended to read:

526.52 Specifications; adulteration and misbranding.—

(3) Brake fluid is deemed to be misbranded:

(a) If its container does not bear on its side or top a label on which is printed the name and place of business of the registrant of the product, the words “brake fluid,” and a statement that the product therein equals or exceeds the minimum specification of the Society of Automotive Engineers for brake fluid, heavy-duty-type, the United States Department of Transportation Motor Vehicle Safety Standard No. 116, or other specified standard identified in department rule. ~~By regulation~~ The department may require by rule that the duty-type classification appear on the label.

Section 31. Subsections (1) and (2) of section 526.53, Florida Statutes, are amended to read:

526.53 Enforcement; inspection and analysis, stop-sale and disposition, regulations.—

(1) The department shall enforce the provisions of this part through the ~~department~~ Division of Standards, and may sample, inspect, analyze, and test any brake fluid manufactured, packed, or sold within this state. The department shall have free access during business hours to all premises, buildings, vehicles, cars, or vessels used in the manufacture, packing, storage, sale, or transportation of brake fluid, and may open any box, carton, parcel, or container of brake fluid and take samples for inspection and analysis or for evidence.

(2)(a) ~~If~~ When any brake fluid is sold in violation of any of the provisions of this part, all such brake fluid of the same brand name ~~on the same premises on which the violation occurred~~ shall be placed under a stop-sale order by the department by serving the owner of the brand name, the distributor, or other entity responsible for selling or distributing the product in this state with the stop-sale order. The department shall withdraw its stop-sale order upon the removal of the violation or upon voluntary

destruction of the product, or other disposal approved by the department, under the supervision of the department.

(b) In addition to being subject to the stop-sale procedures above, unregistered brake fluid shall be held by the department or its representative, at a place to be designated in the stop-sale order, until properly registered and released in writing by the department or its representative. If application has not been made for registration of such product within 30 days after issue of the stop-sale order, the department or, with the consent of the department, the representative may give the product that meets legal specifications such product shall be disposed of by the department to any tax-supported institution or agency of the state. If application has not been made for registration of the product within 30 days after issuance of the stop-order sale and the product fails to meet legal specifications, the product may be disposed of as if the brake fluid meets legal specifications or by other disposal authorized by rule of the department if it fails to meet legal specifications.

Section 32. Section 526.55, Florida Statutes, is amended to read:

526.55 Violation and penalties.—

(1) It is unlawful:

(a)(1) To sell any brake fluid that is adulterated or misbranded, not registered or on which a permit has not been issued.

(b)(2) For anyone to remove any stop-sale order placed on a product by the department, or any product upon which a stop-sale order has been placed.

(2) If the department finds that a person has violated or is operating in violation of ss. 526.50–526.56 or the rules or orders adopted thereunder, the department may, by order:

(a) Issue a notice of noncompliance pursuant to s. 120.695;

(b) Impose an administrative fine not to exceed \$5,000 for each violation;

(c) Direct that the person cease and desist specified activities;

(d) Revoke or suspend a registration, or refuse to register a product; or

(e) Place the registrant on probation for a period of time, subject to conditions as the department may specify.

(3) The administrative proceedings seeking entry of an order imposing any of the penalties specified in subsection (2) are governed by chapter 120.

(4) If a registrant is found to be in violation of ss. 526.50-526.56 and fails to pay a fine within 30 days after imposition of the fine, the department may suspend all registrations issued to the registrant by the department until the fine is paid.

(5) All fines collected by the department under this section shall be deposited into the General Inspection Trust Fund.

~~(3) Any person who violates any of the provisions of this part or any rule or regulation promulgated thereunder shall, for the first offense, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and, for a second or subsequent offense, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 33. Paragraph (b) of subsection (3) of section 539.001, Florida Statutes, is amended to read:

539.001 The Florida Pawnbroking Act.—

(3) LICENSE REQUIRED.—

(b) A licensee who seeks to move a pawnshop to another location must give written notice 30 days' prior ~~written notice to the agency at least 30 days before the move by certified or registered mail, return receipt requested,~~ and the agency must then amend the license to indicate the new location. The licensee must also give such written notice to the appropriate law enforcement official.

Section 34. Subsection (1) of section 559.805, Florida Statutes, is amended to read:

559.805 Filings with the department; disclosure of advertisement identification number.—

(1) Every seller of a business opportunity shall annually file with the department a copy of the disclosure statement required by s. 559.803 before ~~prior to~~ placing an advertisement or making any other representation designed to offer to, sell to, or solicit an offer to buy a business opportunity from a prospective purchaser in this state and shall update this filing by reporting any material change in the required information within 30 days after the material change occurs. An advertisement is not placed in the state merely because the publisher circulates, or there is circulated on his or her behalf in the state, any bona fide newspaper or other publication of general, regular, and paid circulation which has had more than two-thirds of its circulation during the past 12 months outside the state or because a radio or television program originating outside the state is received in the state. If the seller is required by s. 559.807 to provide a bond or establish a trust account or guaranteed letter of credit, he or she shall contemporaneously file with the department a copy of the bond, a copy of the formal notification by the depository that the trust account is established, or a copy of the guaranteed letter of credit. Every seller of a business opportunity shall file with the department a list of independent agents who will engage in the offer or sale of business opportunities on behalf of the seller in this state. This list must be kept current and shall include the following information: name, home and

business address, telephone number, present employer, ~~social-security number~~, and birth date. ~~A No person may not shall be allowed to offer or sell business opportunities unless the required information has been provided to the department.~~

Section 35. Subsection (7) of section 559.904, Florida Statutes, is amended to read:

559.904 Motor vehicle repair shop registration; application; exemption.

(7) Any person applying for or renewing a local business tax receipt occupational license on or after October 1, 1993, to engage in business as a motor vehicle repair shop must exhibit an active registration certificate from the department before the local business tax receipt occupational license may be issued or renewed.

Section 36. Section 559.922, Florida Statutes, is repealed.

Section 37. Subsections (1), (3), and (4) of section 559.928, Florida Statutes, are amended to read:

559.928 Registration.—

(1) Each seller of travel shall annually register with the department, providing: its legal business or trade name, mailing address, and business locations; the full names, addresses, and telephone numbers of its owners or corporate officers and directors and the Florida agent of the corporation; a statement whether it is a domestic or foreign corporation, its state and date of incorporation, its charter number, and, if a foreign corporation, the date it registered with this state the State of Florida, and business tax receipt occupational license where applicable; the date on which a seller of travel registered its fictitious name if the seller of travel is operating under a fictitious or trade name; the name of all other corporations, business entities, and trade names through which each owner of the seller of travel operated, was known, or did business as a seller of travel within the preceding 5 years; a list of all authorized independent agents, including the agent's trade name, full name, mailing address, business address, and telephone numbers; the business location and address of each branch office and full name and address of the manager or supervisor; the certification required under s. 559.9285; and proof of purchase of adequate bond as required in this part. A certificate evidencing proof of registration shall be issued by the department and must be prominently displayed in the seller of travel's primary place of business.

(3) Each independent agent shall annually file an affidavit with the department prior to engaging in business in this state. This affidavit must include the independent agent's full name, legal business or trade name, mailing address, business address, telephone number, ~~social-security number~~, and the name ~~or names~~ and address addresses of each seller of travel represented by the independent agent. A letter evidencing proof of

filing must be issued by the department and must be prominently displayed in the independent agent's primary place of business. Each independent agent must also submit an annual registration fee of \$50. All moneys collected pursuant to the imposition of the fee shall be deposited by the Chief Financial Officer into the General Inspection Trust Fund of the Department of Agriculture and Consumer Services for the sole purpose of administrating this part. As used in this subsection, the term "independent agent" means a person who represents a seller of travel by soliciting persons on its behalf; who has a written contract with a seller of travel which is operating in compliance with this part and any rules adopted thereunder; who does not receive a fee, commission, or other valuable consideration directly from the purchaser for the seller of travel; who does not at any time have any unissued ticket stock or travel documents in his or her possession; and who does not have the ability to issue tickets, vacation certificates, or any other travel document. The term "independent agent" does not include an affiliate of the seller of travel, as that term is used in s. 559.935(3), or the employees of the seller of travel or of such affiliates.

(4) Any person applying for or renewing a local business tax receipt ~~occupational license~~ to engage in business as a seller of travel must exhibit a current registration certificate from the department before the local business tax receipt ~~occupational license~~ may be issued or reissued.

Section 38. Paragraph (c) of subsection (3) of section 559.9285, Florida Statutes, is amended to read:

559.9285 Certification of business activities.—

(3) The department shall specify by rule the form of each certification under this section which shall include the following information:

(c) The legal name, any trade names or fictitious names, mailing address, physical address, telephone number or numbers, facsimile number or numbers, and all Internet and electronic contact information of every other commercial entity with which the certifying party engages in business or commerce that is related in any way to the certifying party's business or commerce with any terrorist state. The information disclosed pursuant to this paragraph does not constitute customer lists, customer names, or trade secrets protected under s. 570.544(8) ~~570.544(7)~~.

Section 39. Subsection (6) of section 559.935, Florida Statutes, is amended to read:

559.935 Exemptions.—

(6) The department shall request from the Airlines Reporting Corporation any information necessary to implement the provisions of subsection (2). Persons claiming an exemption under subsection (2) or subsection (3) must show a letter of exemption from the department before a local business tax receipt ~~occupational license~~ to engage in business as a seller of travel may be

issued or reissued. If the department fails to issue a letter of exemption on a timely basis, the seller of travel shall submit to the department, through certified mail, an affidavit containing her or his name and address and an explanation of the exemption sought. Such affidavit may be used in lieu of a letter of exemption for the purpose of obtaining a business tax receipt and an occupational license. In any civil or criminal proceeding, the burden of proving an exemption under this section ~~is shall~~ be on the person claiming such exemption. A letter of exemption issued by the department ~~may shall~~ not be used in, and has shall have no bearing on, such proceedings.

Section 40. Subsection (12) of section 570.29, Florida Statutes, is amended to read:

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

~~(12) Standards.~~

Section 41. Sections 570.46 and 570.47, Florida Statutes, are repealed.

Section 42. Section 570.544, Florida Statutes, is amended to read:

570.544 Division of Consumer Services; director; powers; processing of complaints; records.—

(1) The director of the Division of Consumer Services shall be appointed by and serve at the pleasure of the commissioner.

(2) The director shall supervise, direct, and coordinate the activities of the division and shall, under the direction of the department, enforce the provisions of chapters 472, 496, 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849.

~~(3)~~(2) The Division of Consumer Services may:

(a) Conduct studies and make analyses of matters affecting the interests of consumers.

(b) Study the operation of laws for consumer protection.

(c) Advise and make recommendations to the various state agencies concerned with matters affecting consumers.

(d) Assist, advise, and cooperate with local, state, or federal agencies and officials in order to promote the interests of consumers.

(e) Make use of the testing and laboratory facilities of the department for the detection of consumer fraud.

(f) Report to the appropriate law enforcement officers any information concerning violation of consumer protection laws.

(g) Assist, develop, and conduct programs of consumer education and consumer information through publications and other informational and educational material prepared for dissemination to the public, in order to increase the competence of consumers.

(h) Organize and hold conferences on problems affecting consumers.

(i) Recommend programs to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services.

~~(4)(3)~~ In addition to the powers, duties, and responsibilities authorized by this or any other chapter, the Division of Consumer Services shall serve as a clearinghouse for matters relating to consumer protection, consumer information, and consumer services generally. It shall receive complaints and grievances from consumers and promptly transmit them to the ~~that~~ agency most directly concerned in order that the complaint or grievance may be expeditiously handled in the best interests of the complaining consumer. If no agency exists, the Division of Consumer Services shall seek a settlement of the complaint using formal or informal methods of mediation and conciliation and may seek any other resolution of the matter in accordance with its jurisdiction.

~~(5)(4)~~ If any complaint received by the Division of Consumer Services concerns matters ~~that which~~ involve concurrent jurisdiction in more than one agency, duplicate copies of the complaint shall be referred to those offices deemed to have concurrent jurisdiction.

~~(6)(5)(a)~~ Any agency, office, bureau, division, or board of state government receiving a complaint ~~that which~~ deals with consumer fraud or consumer protection and that ~~which~~ is not within the jurisdiction of the receiving agency, office, bureau, division, or board originally receiving it, shall immediately refer the complaint to the Division of Consumer Services.

(b) Upon receipt of such a complaint, the Division of Consumer Services shall make a determination of the proper jurisdiction to which the complaint relates and shall immediately refer the complaint to the agency, office, bureau, division, or board that ~~which~~ does have the proper regulatory or enforcement authority to deal with it.

~~(7)(6)~~ The office or agency to which a complaint has been referred shall within 30 days acknowledge receipt of the complaint. If an office or agency receiving a complaint determines that the matter presents a prima facie case for criminal prosecution or if the complaint cannot be settled at the administrative level, the complaint together with all supporting evidence shall be transmitted to the Department of Legal Affairs or other appropriate enforcement agency with a recommendation for civil or criminal action warranted by the evidence.

~~(8)(7)~~ The records of the Division of Consumer Services are public records. However, customer lists, customer names, and trade secrets are confidential and exempt from the provisions of s. 119.07(1). Disclosure necessary to enforcement procedures does shall not violate ~~be construed as violative of~~ this prohibition.

~~(9)(8)~~ ~~It shall be the duty of~~ The Division of Consumer Services shall to maintain records and compile summaries and analyses of consumer complaints and their eventual disposition, which data may serve as a basis for recommendations to the Legislature and to state regulatory agencies.

Section 43. Paragraph (a) of subsection (8) of section 616.242, Florida Statutes, is amended to read:

616.242 Safety standards for amusement rides.—

(8) FEES.—

(a) The department shall by rule establish fees to cover the costs and expenditures associated with the fair rides inspection program ~~Bureau of Fair Rides Inspection~~, including all direct and indirect costs. If there is not sufficient general revenue appropriated by the Legislature, the industry shall pay for the remaining cost of the program. The fees must be deposited in the General Inspection Trust Fund.

Section 44. This act shall take effect July 1, 2012.

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.