

CHAPTER 2013-251

Committee Substitute for Committee Substitute for House Bill No. 7023

An act relating to the Department of Agriculture and Consumer Services; transferring, redesignating, and amending s. 525.09(1), F.S.; transferring collection of a motor fuel inspection fee from the Department of Agriculture and Consumer Services to the Department of Revenue; amending s. 493.6101, F.S.; revising the definition of the term “repossession”; amending s. 493.6113, F.S.; revising firearms recertification training requirements for specified licenses of the private security, private investigative, and repossession industries; amending s. 493.6116, F.S.; deleting a provision prohibiting specified licensees from sponsoring certain interns; requiring interns to perform regulated duties within the state; amending s. 493.6118, F.S.; providing additional grounds for disciplinary action against firearm licensees; amending s. 493.6120, F.S.; providing criminal penalties for a person who knowingly obtains a fraudulent document declaring a licensure applicant to have completed specified training; amending s. 496.405, F.S.; revising procedures and requirements with respect to the submission and processing of registration statements and renewal statements by charitable organizations and sponsors; amending s. 496.406, F.S.; exempting specified organizations and sponsors from filing a registration statement; requiring exempt organizations and sponsors to file specified documents; providing for applicability; amending s. 496.407, F.S.; revising financial reporting requirements; amending s. 496.409, F.S.; revising registration procedures and requirements for professional fundraising consultants; amending s. 496.410, F.S.; revising registration procedures and requirements for professional solicitors; amending s. 496.411, F.S.; revising the information required to be displayed on specified solicitation materials; amending s. 496.415, F.S.; revising a provision prohibiting specified persons from submitting false, misleading, or inaccurate information related to a solicitation or a charitable or sponsor sales promotion; amending s. 496.419, F.S.; revising the responsibility of the Department of Agriculture and Consumer Services to report specified criminal violations; authorizing the department to issue a cease and desist order for specified violations; amending s. 501.016, F.S.; revising the amount of a surety bond, letter of credit, or guaranty agreement furnished to the department by a health studio; amending s. 501.059, F.S.; prohibiting a telephone solicitor from calling certain consumers; amending s. 501.603, F.S.; conforming a cross-reference; revising definitions; amending s. 501.604, F.S.; revising exemptions from specified provisions of the Florida Telemarketing Act; amending s. 501.607, F.S.; revising salesperson application requirements; amending s. 501.608, F.S.; requiring commercial telephone sellers seeking an affidavit of exemption to provide the department with certain information at the department’s request; requiring licensees and exempt persons to display certain documentation; authorizing the department to issue a cease and desist

order and to order a salesperson to leave an office if the salesperson is unable to properly display or produce a license or a receipt of filing of an affidavit of exemption; amending s. 501.611, F.S.; providing that a surety bond filed with the department by a commercial telephone seller remains in force for a specified period; amending s. 501.615, F.S.; revising the contract requirements and restrictions on telephonic sales by commercial telephone sellers; amending s. 501.617, F.S.; authorizing an enforcing authority to conduct regulatory inspections; amending s. 507.03, F.S.; requiring moving brokers to provide certain information at the request of the department; amending s. 507.07, F.S.; prohibiting movers and moving brokers from entering into certain service contracts with certain unregistered persons; amending s. 525.01, F.S.; revising the definition of the term "alternative fuel"; repealing s. 525.09(2)-(4), F.S., relating to the payment and applicability of an inspection fee for testing and analyzing petroleum fuels; amending s. 525.10, F.S.; deleting a provision requiring certain moneys to be paid into the State Treasury before being deposited into a specified trust fund; amending s. 525.16, F.S.; requiring entities that sell or distribute certain fuels to meet fuel standards adopted by the department; providing a release of liability for certain entities who supply and blend fuels that meet department standards; amending s. 526.141, F.S.; providing that certain entities are not liable for damages resulting from the use of incompatible motor fuels under certain circumstances; amending s. 527.01, F.S.; defining the term "license year" applicable to certain liquefied petroleum gas licenses; amending s. 527.0201, F.S.; revising examination requirements for applicants seeking certain licenses; revising continuing education requirements for specified qualifiers; amending s. 527.03, F.S.; revising the requirements and procedure for renewal of liquefied petroleum gas licenses; amending s. 531.415, F.S.; revising a provision exempting certain petroleum equipment from specified fees; amending s. 531.61, F.S.; revising a provision exempting certain devices from permitting requirements; creating s. 531.67, F.S., and repealing s. 40, ch. 2009-66, Laws of Florida, relating to permits for weights and measures instruments or devices, to provide for codification in the Florida Statutes of the expiration of specified provisions and extending the expiration date; amending s. 539.001, F.S.; revising fingerprinting requirements for a pawnbroker license application; amending s. 559.802, F.S.; requiring a specified notice to be filed on a form adopted by the department; amending s. 559.803, F.S.; revising the requirements of the mandatory written disclosure statement provided to purchasers of business opportunities; repealing s. 559.805, F.S., relating to mandatory filings and disclosure of advertisement identification numbers by sellers of business opportunities; amending s. 559.807, F.S.; deleting a provision providing for the use of certain securities requirements relating to selling business opportunities; amending s. 559.813, F.S.; deleting a provision authorizing the department to impose specified penalties for certain violations relating to selling business opportunities; deleting a provision authorizing the department to adopt rules; deleting a provision naming the department as an enforcing authority; amending s. 559.815, F.S.; conforming provisions to changes made by the act; amending s. 559.9221, F.S.; revising the membership of

the Motor Vehicle Repair Advisory Council; amending s. 616.242, F.S.; revising amusement ride insurance coverage requirements; amending s. 721.20, F.S.; requiring specified persons who sell timeshare plans to be licensed as commercial telephone sellers or salespersons under ch. 501, F.S.; providing for severability; providing an effective date.

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

Section 1. Subsection (1) of section 525.09, Florida Statutes, is transferred, redesignated as paragraph (h) of subsection (1) of section 206.41, Florida Statutes, and amended to read:

206.41 State taxes imposed on motor fuel.—

(1) The following taxes are imposed on motor fuel under the circumstances described in subsection (6):

(h)(1) An additional 0.125 cents per net gallon is levied on all motor fuel for sale or use in this state for the purpose of defraying the expenses incident to inspecting, testing, and analyzing motor fuel petroleum fuels in this state, there shall be paid to the department a charge of one-eighth cent per gallon on all gasoline, kerosene (except when used as aviation turbine fuel), and #1 fuel oil for sale or use in this state. All moneys collected pursuant to this paragraph shall be deposited into the State Treasury. Such moneys shall be distributed monthly into the General Inspection Trust Fund. This inspection fee shall be imposed in the same manner as the motor fuel tax pursuant to s. 206.41. Payment shall be made on or before the 25th day of each month.

Section 2. Subsection (22) of section 493.6101, Florida Statutes, is amended to read:

493.6101 Definitions.—

(22) “Repossession” means the recovery of a motor vehicle as defined under s. 320.01(1), a mobile home as defined in s. 320.01(2), a motorboat as defined under s. 327.02, an aircraft as defined in s. 330.27(1), a personal watercraft as defined in s. 327.02, an all-terrain vehicle as defined in s. 316.2074, farm equipment as defined under s. 686.402, or industrial equipment, by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause. As used in this subsection, the term “industrial equipment” includes, but is not limited to, tractors, road rollers, cranes, forklifts, backhoes, and bulldozers. The term “industrial equipment” also includes other vehicles that are propelled by power other than muscular power and that are used in the manufacture of goods or used in the provision of services. A repossession is complete when a licensed recovery agent is in control, custody, and possession of such repossessed property. Property that is being repossessed shall be considered to be in the control, custody, and possession of a recovery agent if the property being repossessed is secured in

preparation for transport from the site of the recovery by means of being attached to or placed on the towing or other transport vehicle or if the property being repossessed is being operated or about to be operated by an employee of the recovery agency.

Section 3. 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 shall may adopt by rule. Proof of completion of firearms recertification training shall be submitted to the department upon completion of the training. If documentation of completion of the required training is not submitted by the end of the first year of the 2-year term of the license, the individual’s license shall be automatically suspended until proof of the required training is submitted to the department. If documentation of completion of the required training is not submitted by the end of the second year of the 2-year term of the license, the license shall not be renewed unless ~~If proof of a minimum of 4 hours of annual firearms recertification training cannot be provided,~~ the renewal applicant completes ~~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;or.

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 4. Subsection (3) of section 493.6116, Florida Statutes, is amended to read:

493.6116 Sponsorship of interns.—

(3) Internship is intended to serve as a learning process. Sponsors shall assume a training status by providing direction and control of interns. Sponsors shall ~~only sponsor interns whose place of business is within a 50-mile distance of the sponsor's place of business and shall not allow interns to operate independently of such direction and control, or require interns to perform activities that which~~ do not enhance the intern's qualification for licensure. Interns must perform regulated duties within the boundaries of this state during the period of internship.

Section 5. Paragraphs (u) and (v) of subsection (1) of section 493.6118, Florida Statutes, are redesignated as paragraphs (w) and (x), respectively, and new paragraphs (u) and (v) are added to that subsection to read:

493.6118 Grounds for disciplinary action.—

(1) The following constitute grounds for which disciplinary action specified in subsection (2) may be taken by the department against any licensee, agency, or applicant regulated by this chapter, or any unlicensed person engaged in activities regulated under this chapter.

(u) For a Class "G" licensee, failing to timely complete recertification training as required in s. 493.6113(3)(b).

(v) For a Class "K" licensee, failing to maintain active certification specified under s. 493.6105(6).

Section 6. Subsection (1) of section 493.6120, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

493.6120 Violations; penalty.—

(1) Any person who violates any provision of this chapter except subsection (5) and s. 493.6405 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) A person may not knowingly possess, issue, cause to be issued, sell, submit, or offer a fraudulent training certificate, proficiency form, or other official document that declares an applicant to have successfully completed any course of training required for licensure under this chapter when that person either knew or reasonably should have known that the certificate, form, or document was fraudulent. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Paragraph (b) of subsection (1) and subsections (2) and (7) of section 496.405, Florida Statutes, are amended to read:

496.405 Registration statements by charitable organizations and sponsors.—

(1)

(b) Any changes in the information submitted on the initial registration statement or the last renewal statement must be updated annually on a renewal statement provided by the department on or before the date that marks one year after the date the department approved the initial registration statement as provided in this section. The department shall annually provide a renewal statement to each registrant by mail or by electronic mail at least ~~30~~ 60 days before the renewal date.

(2) The initial registration statement must be submitted on a form prescribed by the department, signed ~~under oath~~ by an authorized official the treasurer or chief fiscal officer of the charitable organization or sponsor who shall certify that the registration statement is true and correct, and include the following information or material:

(a) A copy of the financial report or Internal Revenue Service Form 990 and all attached schedules Schedule A or Internal Revenue Service Form 990-EZ and Schedule O required under s. 496.407 for the immediately preceding fiscal year. A newly organized charitable organization or sponsor with no financial history must file a budget for the current fiscal year.

(b) The name of the charitable organization or sponsor, the purpose for which it is organized, the name under which it intends to solicit contributions, and the purpose or purposes for which the contributions to be solicited will be used.

(c) The name of the individuals or officers who are in charge of any solicitation activities.

(d) A statement of whether:

1. The charitable organization or sponsor is authorized by any other state to solicit contributions;

2. The charitable organization or sponsor or any of its officers, directors, trustees, or principal salaried executive personnel have been enjoined in any jurisdiction from soliciting contributions or have been found to have engaged in unlawful practices in the solicitation of contributions or administration of charitable assets;

3. The charitable organization or sponsor has had its registration or authority denied, suspended, or revoked by any governmental agency, together with the reasons for such denial, suspension, or revocation; and

4. The charitable organization or sponsor has voluntarily entered into an assurance of voluntary compliance in any jurisdiction or agreement similar to that set forth in s. 496.420, together with a copy of that agreement.

5. The charitable organization or sponsor or any of its officers, directors, trustees, or employees, regardless of adjudication, has been convicted of, or found guilty of, or pled guilty or nolo contendere to, or has been incarcerated within the last 10 years as a result of having previously been convicted of, or

found guilty of, or pled guilty or nolo contendere to, any felony ~~or any crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, misappropriation of property, or any crime arising from the conduct of a solicitation for a charitable organization or sponsor~~ within the last 10 years and, if so, the name of such person, the nature of the offense, the date of the offense, the court having jurisdiction in the case, the date of conviction or other disposition, and the disposition of the offense.

6. The charitable organization or sponsor or any of its officers, directors, trustees, or employees, regardless of adjudication, has been convicted of, or found guilty of, or pled guilty or nolo contendere to, or has been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, any crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, misappropriation of property, or any crime enumerated in this chapter or resulting from acts committed while involved in the solicitation of contributions within the last 10 years and, if so, the name of such person, the nature of the offense, the date of the offense, the court having jurisdiction in the case, the date of conviction or other disposition, and the disposition of the offense.

~~7.6.~~ The charitable organization or sponsor or any of its officers, directors, trustees, or employees has been enjoined from violating any law relating to a charitable solicitation, and, if so, the name of such person, the date of the injunction, and the court issuing the injunction.

(e) The names, street addresses, and telephone numbers of any professional solicitor, professional fundraising consultant, and commercial co-venturer who is acting or has agreed to act on behalf of the charitable organization or sponsor, together with a statement setting forth the specific terms of the arrangements for salaries, bonuses, commissions, expenses, or other remunerations to be paid the fundraising consultant and professional solicitor.

(f) With initial registration only, a statement showing when and where the organization was established and the tax-exempt status of the organization together with a copy of any federal tax exemption determination letter. If the charitable organization or sponsor has not received a federal tax exemption determination letter at the time of initial registration, a copy of such determination must be filed with the department within 30 days after receipt of the determination by the charitable organization or sponsor. If the organization is subsequently notified by the Internal Revenue Service of any challenge to its continued entitlement to federal tax exemption, the charitable organization or sponsor shall notify the department of this fact within 30 days after receipt.

(g) The following information must be filed with the initial registration statement and must be updated when any change occurs in the information that was previously filed with the initial registration statement:

1. The principal street address and telephone number of the organization and the street address and telephone numbers of any offices in this state or, if the charitable organization or sponsor does not maintain an office in this state, the name, street address, and telephone number of the person that has custody of its financial records. The parent organization that files a consolidated registration statement on behalf of its chapters, branches, or affiliates must additionally provide the street addresses and telephone numbers of all such locations in this state.

2. The names and street addresses of the officers, directors, trustees, and the principal salaried executive personnel.

3. The date when the charitable organization's or sponsor's fiscal year ends.

4. A list or description of the major program activities.

5. The names, street addresses, and telephone numbers of the individuals or officers who have final responsibility for the custody of the contributions and who will be responsible for the final distribution of the contributions.

(7) The department must examine each initial registration statement or annual renewal statement and the supporting documents filed by a charitable organization or sponsor and shall determine whether the registration requirements are satisfied. Within 15 ~~10~~ working days after its receipt of a statement, the department must examine the statement, notify the applicant of any apparent errors or omissions, and request any additional information the department is allowed by law to require. Failure to correct an error or omission or to supply additional information is not grounds for denial of the initial registration or annual renewal statement unless the department has notified the applicant within the 15-working-day ~~10-working-day~~ period. The department must approve or deny each statement, or must notify the applicant that the activity for which she or he seeks registration is exempt from the registration requirement, within 15 ~~10~~ working days after receipt of the initial registration or annual renewal statement or the requested additional information or correction of errors or omissions. Any statement that is not approved or denied within 15 ~~10~~ working days after receipt of the requested additional information or correction of errors or omissions is approved. Within 7 working days after receipt of a notification that the registration requirements are not satisfied, the charitable organization or sponsor may request a hearing. The hearing must be held within 7 working days after receipt of the request, and any recommended order, if one is issued, must be rendered within 3 working days of the hearing. The final order must then be issued within 2 working days after the recommended order. If a recommended order is not issued, the final order must be issued within 5 working days after the hearing. The proceedings must be conducted in accordance with chapter 120, except that the time limits and provisions set forth in this subsection prevail to the extent of any conflict.

Section 8. Section 496.406, Florida Statutes, is amended to read:

496.406 Exemption from registration.—

(1) The following charitable organizations and sponsors are exempt from the requirements of s. 496.405:

(a)(1) A person who is soliciting for a named individual, provided that all the contributions collected without any deductions whatsoever are turned over to the beneficiary for her or his use and provided that the person has complied with the requirements of s. 496.413.

(b)(2) A charitable organization or sponsor ~~that~~ ~~which~~ limits solicitation of contributions to the membership of the charitable organization or sponsor. For the purposes of this paragraph, the term “membership” does not include those persons who are granted a membership upon making a contribution as a result of a solicitation.

(c)(3) Any division, department, post, or chapter of a veterans’ service organization granted a federal charter under Title 36, United States Code.

(d) A charitable organization or sponsor that has less than \$25,000 in total revenue during a fiscal year if the fundraising activities of such organization or sponsor are carried on by volunteers, members, or officers who are not compensated and no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer. If a charitable organization or sponsor that has less than \$25,000 in total revenue during a fiscal year actually acquires total revenue equal to or in excess of \$25,000, the charitable organization or sponsor must register with the department as required by s. 496.405 within 30 days after the date the revenue reaches \$25,000.

(2) Before soliciting contributions, a charitable organization or sponsor claiming to be exempt from the registration requirements of s. 496.405 under paragraph (1)(d) must submit annually to the department, on forms prescribed by the department:

(a) The name, address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is organized, and the purpose or purposes for which the contributions to be solicited will be used.

(b) The tax exempt status of the organization.

(c) The date on which the organization’s fiscal year ends.

(d) The names, street addresses, and telephone numbers of the individuals or officers who have final responsibility for the custody of the

contributions and who will be responsible for the final distribution of the contributions.

(e) A financial statement of support, revenue, and expenses and a statement of functional expenses that must include, but not be limited to, expenses in the following categories: program, management and general, and fundraising. In lieu of the financial statement, a charitable organization or sponsor may submit a copy of its Internal Revenue Service Form 990 and all attached schedules or Internal Revenue Service Form 990-EZ and Schedule O.

(3) A charitable organization or sponsor claiming to be exempt from the registration requirements of this chapter shall submit any information that the department may request to substantiate an exemption under this section. A charitable organization or sponsor that fails to submit information satisfactory to the department is not exempt from the requirements of this chapter. In any proceeding, the burden of proving an exemption is upon the charitable organization or sponsor claiming it.

(4) Exemption from the registration requirements of s. 496.405 does not limit the applicability of other provisions of this section to a charitable organization or sponsor.

Section 9. Subsection (2) of section 496.407, Florida Statutes, is amended to read:

496.407 Financial report.—

(2) In lieu of the financial report described in subsection (1), a charitable organization or sponsor may submit a copy of its Internal Revenue Service Form 990 and all attached schedules Schedule A filed for the preceding fiscal year, or a copy of its Internal Revenue Service Form 990-EZ and Schedule O filed for the preceding fiscal year.

Section 10. Subsections (2), (3), and (6) of section 496.409, Florida Statutes, are amended to read:

496.409 Registration and duties of professional fundraising consultant.

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by the department, signed by an authorized official of the professional fundraising consultant who shall certify that the report is true and correct under oath, and must include the following information:

(a) The street address and telephone number of the principal place of business of the applicant and any Florida street addresses if the principal place of business is located outside this state.

(b) The form of the applicant's business.

(c) The names and residence addresses of all principals of the applicant, including all officers, directors, and owners.

(d) Whether any of the owners, directors, officers, or employees of the applicant are related as parent, child, spouse, or sibling to any other directors, officers, owners, or employees of the applicant; to any officer, director, trustee, or employee of any charitable organization or sponsor under contract to the applicant; or to any supplier or vendor providing goods or services to any charitable organization or sponsor under contract to the applicant.

(e) Whether the applicant or any of its officers, directors, trustees, or employees have, within the last 10 years, regardless of adjudication, been convicted, or found guilty of, or pled guilty or nolo contendere to, or have been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, any felony and, if so, the name of such person, the nature of the offense, the date of the offense, the court having jurisdiction in the case, the date of conviction or other disposition, and the disposition of the offense.

(f) Whether the applicant or any of its officers, directors, trustees, or employees have, regardless of adjudication, been convicted of, or found guilty of, or pled guilty or nolo contendere to, or have been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, a crime within the last 10 years involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or any crime arising from the conduct of a solicitation for a charitable organization or sponsor and, if so, the name of such person, the nature of the offense, the date of the offense, the court having jurisdiction in the case, the date of conviction or other disposition, and the disposition of the offense.

(g) Whether the applicant or any of its officers, directors, trustees, or employees have been enjoined from violating any law relating to a charitable solicitation and, if so, the name of such person, the date of the injunction, and the court issuing the injunction.

(3) The application for registration must be accompanied by a fee of \$300. A professional fundraising consultant which is a partnership or corporation may register for and pay a single fee on behalf of all of its partners, members, officers, directors, agents, and employees. In that case, the names and street addresses of all the officers, employees, and agents of the fundraising consultant and all other persons with whom the fundraising consultant has contracted to work under its direction must be listed in the application. Each registration is valid for 1 year ~~or a part of 1 year and expires on March 31 of each year.~~ The registration may be renewed ~~on or before March 31 of each year~~ for additional 1-year periods upon application to the department and payment of the registration fee.

(6) The department shall examine each registration statement and supporting documents filed by a professional fundraising consultant and determine whether the registration requirements are satisfied. If the department determines that the registration requirements are not satisfied, the department must notify the professional fundraising consultant within 15 ~~10~~ working days after its receipt of the registration statement; otherwise the registration statement is approved. Within 7 working days after receipt of a notification that the registration requirements are not satisfied, the applicant may request a hearing. The hearing must be held within 7 working days after receipt of the request, and any recommended order, if one is issued, must be rendered within 3 working days after the hearing. The final order must then be issued within 2 working days after the recommended order. If there is no recommended order, the final order must be issued within 5 working days after the hearing. The proceedings must be conducted in accordance with chapter 120, except that the time limits and provisions set forth in this subsection prevail to the extent of any conflict.

Section 11. Subsections (2), (3), (5), and (8) of section 496.410, Florida Statutes, are amended to read:

496.410 Registration and duties of professional solicitors.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by rule of the department, signed by an authorized official of the professional solicitor who shall certify that the report is true and correct under oath, and must include the following information:

(a) The street address and telephone number of the principal place of business of the applicant and any Florida street addresses if the principal place of business is located outside this state.

(b) The form of the applicant's business.

(c) The place and date when the applicant, if other than an individual, was legally established.

(d) The names and residence addresses of all principals of the applicant, including all officers, directors, and owners.

(e) A statement as to whether any of the owners, directors, officers, or employees of the applicant are related as parent, spouse, child, or sibling to any other directors, officers, owners, or employees of the applicant; to any officer, director, trustee, or employee of any charitable organization or sponsor under contract to the applicant; or to any supplier or vendor providing goods or services to any charitable organization or sponsor under contract to the applicant.

(f) A statement as to whether the applicant or any of its directors, officers, trustees, persons with a controlling interest in the applicant, or employees or agents involved in solicitation have, within the last 10 years, regardless of

adjudication, been convicted of, or found guilty of, or pled guilty or nolo contendere to, or have been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, any felony and, if so, the name of such person, the nature of the offense, the date of the offense, the court having jurisdiction in the case, the date of conviction or other disposition, and the disposition of the offense.

(g) A statement as to whether the applicant or any of its directors, officers, trustees, persons with a controlling interest in the applicant, or employees or agents involved in solicitation have, regardless of adjudication, been convicted of, or found guilty of, or pled guilty or nolo contendere to, or have been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, a crime within the last 10 years involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, or any crime arising from the conduct of a solicitation for a charitable organization or sponsor and, if so, the name of such person, the nature of the offense, the date of the offense, the court having jurisdiction in the case, the date of conviction or other disposition, and the disposition of the offense.

(h) A statement as to whether the applicant or any of its directors, officers, trustees, persons with a controlling interest in the applicant, or employees or agents involved in solicitation have been enjoined from violating any law relating to a charitable solicitation and, if so, the name of such person, the date of the injunction, and the court issuing the injunction.

(i) The names of all persons in charge of any solicitation activity.

(3) The application for registration must be accompanied by a fee of \$300. A professional solicitor that is a partnership or corporation may register for and pay a single fee on behalf of all of its partners, members, officers, directors, agents, and employees. In that case, the names and street addresses of all the officers, employees, and agents of the professional solicitor and all other persons with whom the professional solicitor has contracted to work under its direction, including solicitors, must be listed in the application or furnished to the department within 5 days after the date of employment or contractual arrangement. Each registration is valid for 1 year or a part of 1 year and expires on ~~March 31~~ of each year. The registration may be renewed ~~on or before March 31~~ of each year for an additional 1-year period upon application to the department and payment of the registration fee.

(5) The department must examine each registration statement and supporting documents filed by a professional solicitor. If the department determines that the registration requirements are not satisfied, the department must notify the professional solicitor within ~~15~~ 10 working days after its receipt of the registration statement; otherwise the registration statement is approved. Within 7 working days after receipt of a notification that the registration requirements are not satisfied, the applicant may request a hearing. The hearing must be held within 7 working days after

receipt of the request, and any recommended order, if one is issued, must be rendered within 3 working days after the hearing. The final order must then be issued within 2 working days after the recommended order. If there is no recommended order, the final order must be issued within 5 working days after the hearing. The proceedings must be conducted in accordance with chapter 120, except that the time limits and provisions set forth in this subsection prevail to the extent of any conflict.

(8) Within ~~45~~ 90 days after a solicitation campaign has been completed and within 45 days after ~~on~~ the anniversary of the commencement of a solicitation campaign lasting more than 1 year, the professional solicitor must provide to the charitable organization or sponsor and file with the department a financial report of the campaign, including the gross revenue received and an itemization of all expenses incurred. The report must be completed on a form prescribed by the department and signed by an authorized official of the professional solicitor who shall certify ~~under oath~~ that the report is true and correct.

Section 12. Subsection (6) of section 496.411, Florida Statutes, is amended to read:

496.411 Disclosure requirements and duties of charitable organizations and sponsors.—

(6) Each charitable organization or sponsor that is required to register under s. 496.405 shall conspicuously display the organization's or sponsor's registration number issued by the department under this chapter following information on every printed solicitation, written confirmation, receipt, or reminder of a contribution:

~~(a) The organization's or sponsor's registration number issued by the department under this chapter.~~

~~(b) The percentage, if any, of each contribution that is retained by any professional solicitor that has contracted with the organization or sponsor.~~

~~(c) The percentage of each contribution that is received by the organization or sponsor.~~

If the solicitation consists of more than a single item, the statement shall be displayed prominently in the solicitation materials.

Section 13. Subsection (2) of section 496.415, Florida Statutes, is amended to read:

496.415 Prohibited acts.—It is unlawful for any person in connection with the planning, conduct, or execution of any solicitation or charitable or sponsor sales promotion to:

(2) Knowingly submit file false, or misleading, or inaccurate information in a any document that is required to be filed with the department, provided

to the public, or offered in response to a any request or investigation by the department, the Department of Legal Affairs, or the state attorney.

Section 14. Subsection (8) of section 496.419, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

496.419 Powers of the department.—

(8) The department shall report any substantiated criminal violation of ss. 496.401-496.424 or s. 496.426 to the proper prosecuting authority for prompt prosecution.

(10) A finding of a violation of s. 496.415(3), (5), (6), (10), (12), (13), or (14) constitutes an immediate threat to the public health, safety, and welfare and is sufficient grounds for the department to issue an immediate order to cease and desist all solicitation activities. The order shall act as an immediate final order under s. 120.569(2)(n) and shall remain in effect until the violation has been remedied pursuant to this chapter.

Section 15. Subsections (1), (2), and (4) of section 501.016, Florida Statutes, are amended to read:

501.016 Health studios; security requirements.—Each health studio that sells contracts for health studio services shall meet the following requirements:

(1) Each health studio shall maintain for each separate business location a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be \$25,000 ~~\$50,000~~, and the bond, when required, shall be obtained before a business tax receipt may be issued under chapter 205. Upon issuance of a business tax receipt, the licensing authority shall immediately notify the department of such issuance in a manner established by the department by rule. The bond shall be in favor of the state for the benefit of any person injured as a result of a violation of ss. 501.012-501.019. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein shall in no event exceed the amount of the bond. The original surety bond required by this section shall be filed with the department.

(2) In lieu of maintaining the bond required in subsection (1), the health studio may furnish to the department:

(a) An irrevocable letter of credit from any foreign or domestic bank in the amount of \$25,000 ~~\$50,000~~; or

(b) A guaranty agreement that ~~which~~ is secured by a certificate of deposit in the amount of \$25,000 ~~\$50,000~~.

The original letter of credit or certificate of deposit submitted in lieu of the bond shall be filed with the department. The department shall decide

whether the security furnished in lieu of bond by the health studio is in compliance with the requirements of this section.

(4) If the health studio furnishes the department with evidence satisfactory to the department that the aggregate dollar amount of all current outstanding contracts of the health studio is less than \$5,000, the department may, at its discretion, reduce the principal amount of the surety bond or other sufficient financial responsibility required in subsections (1) and (2) to a sum of not less than \$10,000. However, at any time the aggregate dollar amount of such contracts exceeds \$5,000, the health studio shall so notify the department and shall thereupon provide the bond or other documentation as required in subsections (1) and (2). Health studios whose bonds have been reduced must provide the department with an annually updated list of members. Failure to file an annual report will result in the department raising the security requirement to \$25,000 ~~\$50,000~~.

Section 16. Subsections (5) through (10) of section 501.059, Florida Statutes, are renumbered as subsections (6) through (11), respectively, and a new subsection (5) is added to that section to read:

501.059 Telephone solicitation.—

(5) A telephone solicitor may not initiate an outbound telephone call to a consumer who has previously communicated to the telephone solicitor that he or she does not wish to receive an outbound telephone call:

(a) Made by or on behalf of the seller whose goods or services are being offered; or

(b) Made on behalf of a charitable organization for which a charitable contribution is being solicited.

Section 17. Subsections (1) and (2) of section 501.603, Florida Statutes, are amended to read:

501.603 Definitions.—As used in this part, unless the context otherwise requires, the term:

(1) “Commercial telephone solicitation” means:

(a) An unsolicited telephone call to a person initiated by a commercial telephone seller or salesperson, or an automated dialing machine used in accordance with the provisions of s. 501.059(8) ~~501.059(7)~~ for the purpose of inducing the person to purchase or invest in consumer goods or services;

(b) Other communication with a person where:

1. A gift, award, or prize is offered; or
2. A telephone call response is invited; and

3. The salesperson intends to complete a sale or enter into an agreement to purchase or invest in consumer goods or services during the course of the telephone call; or

(c) Other communication with a person which represents a price, quality, or availability of consumer goods or services and which invites a response by telephone or which is followed by a call to the person by a salesperson.

For purposes of this section, “other communication” means a written or oral notification or advertisement transmitted through any means. Also, for purposes of this section, “invites a response by telephone” does not mean the mere listing or including of a telephone number in a notification or advertisement.

(2) “Commercial telephone seller” means ~~a any~~ person who engages in commercial telephone solicitation on his or her own behalf or through salespersons, except that a commercial telephone seller does not include a person or entity operating under a valid affidavit of exemption filed with the department according to s. 501.608(1)(b) or any of the persons or entities exempted from this part by s. 501.604. A commercial telephone seller does not include a salesperson as defined in subsection (10). A commercial telephone seller includes, but is not limited to, owners, operators, officers, directors, partners, or other individuals engaged in the management activities of a business entity pursuant to this part.

Section 18. Subsections (4), (7), (10), (14), and (24) of section 501.604, Florida Statutes, are amended to read:

501.604 Exemptions.—The provisions of this part, except ss. 501.608 and 501.616(6) and (7), do not apply to:

(4) A ~~Any~~ licensed securities, commodities, or investment broker, dealer, or investment adviser, when soliciting within the scope of his or her license, or a ~~any~~ licensed associated person of a securities, commodities, or investment broker, dealer, or investment adviser, when soliciting within the scope of his or her license. As used in this section, “licensed securities, commodities, or investment broker, dealer, or investment adviser” means a person subject to license or registration as such by the Securities and Exchange Commission, by the Financial Industry Regulatory Authority ~~National Association of Securities Dealers~~ or other self-regulatory organization as defined by the Securities Exchange Act of 1934, 15 U.S.C. s. 78l, or by an official or agency of this state or of any state of the United States. As used in this section, “licensed associated person of a securities, commodities, or investment broker, dealer, or investment adviser” means an ~~any~~ associated person registered or licensed by the Financial Industry Regulatory Authority ~~National Association of Securities Dealers~~ or other self-regulatory organization as defined by the Securities Exchange Act of 1934, 15 U.S.C. s. 78l, or by an official or agency of this state or of any state of the United States.

(7) A Any supervised financial institution or parent, subsidiary, or affiliate thereof operating within the scope of supervised activity. As used in this section, “supervised financial institution” means a any commercial bank, trust company, savings and loan association, mutual savings bank, credit union, industrial loan company, consumer finance lender, commercial finance lender, or insurer, provided that the institution is subject to supervision by an official or agency of this state, of any state, or of the United States. For the purposes of this exemption, “affiliate” means a person who directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a supervised financial institution.

(10) A business-to-business sale where:

(a) The commercial telephone seller has been lawfully operating continuously for at least 3 years under the same business name and has at least 50 percent of its dollar volume consisting of repeat sales to existing businesses;

(b) The purchaser business intends to resell or offer for purposes of advertisement or as a promotional item the property or goods purchased; or

(c) The purchaser business intends to use the property or goods purchased in a recycling, reuse, remanufacturing, or manufacturing process.

(14) A telephone company subject to ~~the provisions of~~ chapter 364, or affiliate thereof or its agents, or a telecommunications business ~~that which~~ is regulated by the Florida Public Service Commission, or a Federal Communications Commission licensed cellular telephone company or other bona fide radio telecommunication services provider. For the purposes of this exemption, “affiliate” means a person who directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a telephone company subject to ~~the provisions of~~ chapter 364.

(24) Any person who ~~which~~ has been lawfully providing telemarketing sales services continuously for at least 5 years under the same ownership and control and who ~~which~~ derives 75 percent of its gross telemarketing sales revenues from contracts with persons exempted in this section.

Section 19. 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 license number or other valid form of identification, and home address of the applicant.

~~(b)~~—Each business or occupation engaged in by the applicant during the 3 years immediately preceding the date of the application, and the location thereof.

~~(b)~~~~(e)~~ The previous experience of the applicant as a commercial telephone seller or salesperson.

~~(c)~~~~(d)~~ Whether the applicant, regardless of adjudication, has previously been arrested for, convicted or found guilty of, has entered a plea of guilty or a plea of nolo contendere to, or is under indictment or information for, a felony and, if so, the nature of the felony.

~~(d)~~~~(e)~~ Whether the applicant, regardless of adjudication, has previously been convicted or found guilty of, has entered a plea of guilty or a plea of nolo contendere to, or is under indictment or information for, racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property.

~~(e)~~~~(f)~~ Whether there has ever been a judicial or administrative finding that the applicant has previously been convicted of acting as a salesperson without a license, or whether such a license has previously been refused, revoked, or suspended in any jurisdiction.

~~(f)~~~~(g)~~ Whether the applicant has worked for, or been affiliated with, a company that is involved in pending litigation or has had entered against it an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice.

~~(g)~~~~(h)~~ Whether the applicant is involved in pending litigation or has had entered against her or him an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice.

Section 20. Paragraph (b) of subsection (1) and subsections (2) and (3) of section 501.608, Florida Statutes, are amended to read:

501.608 License or affidavit of exemption; occupational license.—

(1)

(b) Any commercial telephone seller claiming to be exempt from the act under s. 501.604(2), (3), (5), (6), (9), (10), (11), (12), (17), (21), (22), (24), or (26)

must file with the department a notarized affidavit of exemption. The affidavit of exemption must be on forms prescribed by the department and must require the name of the commercial telephone seller, the name of the business, and the business address. At the request of the department, the commercial telephone seller shall provide sales scripts, contracts, and other documentation as needed to verify the validity of the exemption before the affidavit of exemption is accepted for filing. ~~A~~ Any commercial telephone seller maintaining more than one business may file a single notarized affidavit of exemption that clearly indicates the location of each place of business. If a change of ownership occurs, the commercial telephone seller must notify the department.

(2) Each licensee or person operating under a valid and properly filed ~~claiming an~~ exemption shall prominently display his or her license or a copy of his or her receipt of filing of the affidavit of exemption at each location where he or she does business and. ~~Each licensee or person claiming an exemption shall make the license or the receipt of filing copy of the affidavit of exemption available for inspection by any governmental agency upon request.~~

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

Section 21. Subsection (3) of section 501.611, Florida Statutes, is amended to read:

501.611 Security.—

(3) The bond shall be posted with the department and shall remain in force throughout the period of licensure with the department.

Section 22. Subsection (12) of section 501.615, Florida Statutes, is amended to read:

501.615 Written contract; cancellation; refund.—

(12) Exempt from the requirements of subsections (1)-(5) is any sale in which the consumer is given a right to a full refund for the return of undamaged and unused goods or a cancellation of services notice is given to the seller, within 7 days after receipt of the goods or services by the consumer, and the seller shall process the refund within 30 days after receipt

of the returned merchandise by the consumer. A commercial telephone seller or salesperson engaged in activity regulated by chapter 721 must comply with s. 721.205.

Section 23. Subsection (1) of section 501.617, Florida Statutes, is amended to read:

501.617 Investigative powers of enforcing authority.—

(1) If, by her or his own inquiries or as a result of complaints, the enforcing authority has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates ~~the provisions of this part~~, she or he may administer oaths and affirmations, subpoena witnesses or matter, conduct regulatory inspections, and collect evidence. Within 10 days after the service of a subpoena or at any time before the return date specified therein, whichever is longer, the party served may file in the circuit court in the county in which she or he resides or in which she or he transacts business and serve upon the enforcing authority a petition for an order modifying or setting aside the subpoena. The petitioner may raise any objection or privilege that ~~which~~ would be available under this part or upon service of such subpoena in a civil action. The subpoena shall inform the party served of her or his rights under this subsection.

Section 24. Subsection (10) is added to section 507.03, Florida Statutes, to read:

507.03 Registration.—

(10) At the request of the department, each moving broker shall provide a complete list of the movers that the moving broker has contracted or is affiliated with, advertises on behalf of, arranges moves for, or refers shippers to, including each mover’s complete name, address, telephone number, and e-mail address and the name of each mover’s owner or other principal.

Section 25. Section 507.07, Florida Statutes, is amended to read:

507.07 Violations.—It is a violation of this chapter ~~to~~:

(1) ~~To~~ conduct business as a mover or moving broker, or advertise to engage in the business of moving or offering to move, without being registered with the department.

(2) ~~To~~ knowingly make any false statement, representation, or certification in any application, document, or record required to be submitted or retained under this chapter.

(3) ~~To~~ misrepresent or deceptively represent:

(a) The contract for services, bill of lading, or inventory of household goods for the move estimated.

(b) The timeframe or schedule for delivery or storage of household goods estimated.

(c) The price, size, nature, extent, qualities, or characteristics of accessorial or moving services offered.

(d) The nature or extent of other goods, services, or amenities offered.

(e) A shipper's rights, privileges, or benefits.

(4) To fail to honor and comply with all provisions of the contract for services or bill of lading regarding the purchaser's rights, benefits, and privileges thereunder.

(5) To withhold delivery of household goods or in any way hold goods in storage against the expressed wishes of the shipper if payment has been made as delineated in the estimate or contract for services.

(6)(a) To include in any contract any provision purporting to waive or limit any right or benefit provided to shippers under this chapter.

(b) To seek or solicit a waiver or acceptance of limitation from a shipper concerning rights or benefits provided under this chapter.

(c) To use a local mailing address, registration facility, drop box, or answering service in the promotion, advertising, solicitation, or sale of contracts, unless the mover's, and, if applicable, the moving broker's, fixed business address is clearly disclosed during any telephone solicitation and is prominently and conspicuously disclosed on all solicitation materials and on the contract.

(d) To commit any other act of fraud, misrepresentation, or failure to disclose a material fact.

(e) To refuse or fail, or for any of the mover's or broker's principal officers to refuse or fail, after notice, to produce any document or record or disclose any information required to be produced or disclosed.

(f) To knowingly make a false statement in response to any request or investigation by the department, the Department of Legal Affairs, or the state attorney.

(7) For a moving broker to enter into a contract or agreement for moving, loading, shipping, transporting, or unloading services with a mover who is not registered with the department pursuant to this chapter.

(8) For a mover to enter into a contract or agreement for moving, loading, shipping, transporting, or unloading services with a moving broker who is not registered with the department pursuant to this chapter.

Section 26. Paragraph (c) of subsection (1) of section 525.01, Florida Statutes, is amended to read:

525.01 Gasoline and oil to be inspected.—

(1) For the purpose of this chapter:

(c) “Alternative fuel” means:

1. Methanol, denatured ethanol, or other alcohols;

2. ~~Mixtures of gasoline or other fuels with methanol, denatured ethanol, or other alcohols containing 85 percent or more by volume of methanol, denatured ethanol, or other alcohols with gasoline or other fuels, or such other percentage, but not less than 70 percent, as determined by the department by rule, to provide for requirements relating to cold start, safety, or vehicle functions;~~

3. Hydrogen;

4. Coal-derived liquid fuels; and

5. Fuels, other than alcohol, derived from biological materials.

Section 27. Subsections (2), (3), and (4) of section 525.09, Florida Statutes, are repealed.

Section 28. Section 525.10, Florida Statutes, is amended to read:

~~525.10 Moneys to be paid into State Treasury; Payment of expenses.—All moneys payable under this chapter shall be payable to the department and shall be paid by it into the State Treasury monthly to be deposited into the General Inspection Trust Fund. All expenses incurred in the enforcement of this chapter and other inspection laws of this state for which fees are collected, including acquiring equipment and other property, shall be paid from the General Inspection Trust Fund. No money shall be paid to any inspector or employee created under this chapter except from the funds collected from the administration of this chapter.~~

Section 29. Subsections (3) and (4) of section 525.16, Florida Statutes, are renumbered as subsections (4) and (5), respectively, and a new subsection (3) is added to that section to read:

525.16 Administrative fine; penalties; prosecution of cases by state attorney.—

(3) An entity that sells, offers for sale, distributes, or offers for distribution petroleum or alternative fuels shall ensure that its activities result in petroleum fuels that meet all requirements and standards adopted under s. 525.14. A terminal supplier, wholesaler, or blender licensed under chapter 206 is not liable for injuries or damages resulting from the subsequent blending of petroleum or alternative fuels occurring after the transfer of ownership of such fuels from the terminal supplier, wholesaler, or blender if the petroleum or alternative fuels used to make the petroleum fuel at issue

met the requirements and standards adopted under s. 525.14 while under ownership of the terminal supplier, wholesaler, or blender.

Section 30. Subsection (7) of section 526.141, Florida Statutes, is renumbered as subsection (8), and a new subsection (7) is added to that section to read:

526.141 Self-service gasoline stations; attendants; regulations.—

(7) A refiner, terminal supplier, wholesaler, or retailer is not liable for damages resulting from the use of incompatible motor fuel dispensed at a retail site if:

(a) The incompatible fuel meets the requirements and standards adopted under s. 525.14;

(b) The incompatible fuel was selected by the purchaser; and

(c) The retail dispenser that dispensed the incompatible fuel was properly labeled according to the labeling requirements adopted under s. 525.14.

Section 31. Subsection (20) is added to section 527.01, Florida Statutes, to read:

527.01 Definitions.—As used in this chapter:

(20) “License year” means the period from September 1 through the following August 31, or April 1 through the following March 31, depending upon the type of license.

Section 32. Subsections (1) and (3) and paragraphs (a) and (c) of subsection (5) of section 527.0201, Florida Statutes, are amended to read:

527.0201 Qualifiers; master qualifiers; examinations.—

(1) In addition to the requirements of s. 527.02, any person applying for a license to engage in the activities of a pipeline system operator, category I liquefied petroleum gas dealer, category II liquefied petroleum gas dispenser, category IV liquefied petroleum gas dispenser and recreational vehicle servicer, category V liquefied petroleum gases dealer for industrial uses only, LP gas installer, specialty installer, ~~requalifier~~ ~~requalification~~ of cylinders, or fabricator, repairer, and tester of vehicles and cargo tanks must prove competency by passing a written examination administered by the department or its agent with a grade of 75 percent or above in each area tested. Each applicant for examination shall submit a \$20 nonrefundable fee. The department shall by rule specify the general areas of competency to be covered by each examination and the relative weight to be assigned in grading each area tested.

(3) Qualifier cards issued to category I liquefied petroleum gas dealers and liquefied petroleum gas installers shall expire 3 years after the date of issuance. All category I liquefied petroleum gas dealer qualifiers and liquefied petroleum gas installer qualifiers holding a valid qualifier card upon the effective date of this act shall retain their qualifier status until July 1, 2003, and may sit for the master qualifier examination at any time during that time period. All such category I liquefied petroleum gas dealer qualifiers and liquefied petroleum gas installer qualifiers may renew their qualification on or before July 1, 2003, upon application to the department, payment of a \$20 renewal fee, and documentation of the completion of a minimum of 16 ~~12~~ hours approved continuing education courses, as defined by department rule, during the previous 3-year period. Applications for renewal must be made 30 calendar days before ~~prior to~~ expiration. Persons failing to renew before ~~prior to~~ the expiration date must reapply and take a qualifier competency examination in order to reestablish category I liquefied petroleum gas dealer qualifier and liquefied petroleum gas installer qualifier status. If a category I liquefied petroleum gas qualifier or liquefied petroleum gas installer qualifier becomes a master qualifier at any time during the effective date of the qualifier card, the card shall remain in effect until expiration of the master qualifier certification.

(5) In addition to all other licensing requirements, each category I liquefied petroleum gas dealer and liquefied petroleum gas installer must, at the time of application for licensure, identify to the department one master qualifier who is a full-time employee at the licensed location. This person shall be a manager, owner, or otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the department as provided by rule. The master qualifier requirement shall be in addition to the requirements of subsection (1).

(a) In order to apply for certification as a master qualifier, each applicant must be a category I liquefied petroleum gas dealer qualifier or liquefied petroleum gas installer qualifier, must be employed by a licensed category I liquefied petroleum gas dealer, liquefied petroleum gas installer, or applicant for such license, must provide documentation of a minimum of 1 year's work experience in the gas industry, and must pass a master qualifier competency examination. Master qualifier examinations shall be based on Florida's laws, rules, and adopted codes governing liquefied petroleum gas safety, general industry safety standards, and administrative procedures. The applicant examination must be successfully pass the examination completed by the applicant with a grade of 75 percent or above more. Each applicant for master qualifier status must ~~shall~~ submit to the department a nonrefundable \$30 examination fee before ~~prior to~~ the examination.

(c) Master qualifier status shall expire 3 years after the date of issuance of the certificate and may be renewed by submission to the department of documentation of completion of at least 16 ~~12~~ hours of approved continuing education courses during the 3-year period; proof of employment with a licensed category I liquefied petroleum gas dealer, liquefied petroleum gas

installer, or applicant; and a \$30 certificate renewal fee. The department shall define, by rule, approved courses of continuing education.

Section 33. Section 527.03, Florida Statutes, is amended to read:

527.03 Annual renewal of license.—All licenses required under this chapter shall be renewed annually subject to the license fees prescribed in s. 527.02. All licenses, except Category III Liquefied Petroleum Gas Cylinder Exchange Unit Operator licenses and Dealer in Appliances and Equipment for Use of Liquefied Petroleum Gas licenses, shall be renewed for the period beginning September 1 and shall expire on the following August 31 unless sooner suspended, revoked, or otherwise terminated. Category III Liquefied Petroleum Gas Cylinder Exchange Unit Operator licenses and Dealer in Appliances and Equipment for Use of Liquefied Petroleum Gas licenses shall be renewed for the period beginning April 1 and shall expire on the following March 31 unless sooner suspended, revoked, or otherwise terminated. Any license allowed to expire on August 31 shall become inoperative because of failure to renew. The fee for restoration of a license is equal to the original license fee and must be paid before the licensee may resume operations.

Section 34. Subsection (3) of section 531.415, Florida Statutes, is amended to read:

531.415 Fees.—

(3) ~~Any petroleum product taxed under s. 525.09 and any petroleum equipment used to measure petroleum fuel, as defined in s. 525.01, owned by a person licensed pursuant to chapter 206 is exempt from the fees established in this section.~~

Section 35. Subsection (3) of section 531.61, Florida Statutes, is amended to read:

531.61 Exemptions from permit requirement.—Commercial weights or measures instruments or devices are exempt from the permit requirements of ss. 531.60-531.66 if:

(3) The device is used exclusively for measuring aviation fuel or petroleum products inspected taxed under chapter 525 s. 525.09.

Section 36. Section 531.67, Florida Statutes, is created to read:

531.67 Expiration of sections.—Sections 531.60, 531.61, 531.62, 531.63, 531.64, 531.65, and 531.66 shall expire July 1, 2020.

Section 37. Section 40 of chapter 2009-66, Laws of Florida, is repealed.

Section 38. Paragraph (c) of subsection (5) of section 539.001, Florida Statutes, is amended to read:

539.001 The Florida Pawnbroking Act.—

(5) APPLICATION FOR LICENSE.—

(c) Each initial application for a license must be accompanied by a complete set of fingerprints taken by an authorized law enforcement officer or a fingerprinting service provider approved by the Department of Law Enforcement, \$300 for the first year's license fee, and the actual cost to the agency for fingerprint analysis for each person subject to the eligibility requirements. The agency shall submit the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. These fees and costs are not refundable.

Section 39. Paragraph (b) of subsection (1) of section 559.802, Florida Statutes, is amended to read:

559.802 Franchises; exemption.—

(1) The sale of a franchise is exempt from this part if:

(b) Before offering for sale or selling a franchise to be located in this state or to a resident of this state, the franchisor files a notice with the department, on a form adopted by the department, stating that the franchisor is in substantial compliance with the requirements of the Federal Trade Commission rule, and pays a fee in an amount set by the department, not exceeding \$100.

Section 40. Section 559.803, Florida Statutes, is amended to read:

559.803 Disclosure statement.—At least 3 working days before ~~prior to~~ the time the purchaser signs a business opportunity contract, or at least 3 working days before ~~prior to~~ the receipt of any consideration by the seller, whichever occurs first, the seller must provide the prospective purchaser a written document, the cover sheet of which is entitled in at least 12-point boldfaced capital letters “DISCLOSURES REQUIRED BY FLORIDA LAW.” Under this title shall appear the following statement in at least 10-point type: “The State of Florida has not reviewed and does not approve, recommend, endorse, or sponsor any business opportunity. The information contained in this disclosure has not been verified by the state. If you have any questions about this investment, see an attorney before you sign a contract or agreement.” Nothing except the title and required statement shall appear on the cover sheet. Immediately following the cover sheet, the seller must provide an index page that briefly lists the contents of the disclosure document as required in this section and any pages on which the prospective purchaser can find each required disclosure. At the top of the index page, the following statement must appear in at least 10-point type: “The State of Florida requires sellers of business opportunities to disclose certain information to prospective purchasers. This index is provided to help you locate this information.” If the index contains other information not required by this section, the seller shall place a designation beside each of the

disclosures required by this section and provide an explanation of the designation at the end of the statement at the top of the index page. The disclosure document shall contain the following information:

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

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

(3) The length of time the seller has:

(a) Sold business opportunities; or

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

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

(5) A copy of a current (~~not older than 13 months~~) financial statement of the seller that is no older than 13 months, updated to reflect material changes in the seller's financial condition.

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

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

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

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

(b) "As required by Florida law, the seller has established a guaranteed letter of credit or certificate of deposit ...(number of account)... with ...(name

and address of bank or savings institution)... Before signing a contract to purchase this business opportunity, you should confirm with the bank or savings institution the current status of the guaranteed letter of credit or certificate of deposit.”

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

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

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

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

(11)(a) The total number of persons who purchased the business opportunity being offered by the seller within the past 3 years.

(b) The names, addresses, and telephone numbers of the 10 persons who previously purchased the business opportunity from the seller and who are geographically closest to the potential purchaser.

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

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

(b) Has, at any time during the previous 7 fiscal years, been held liable in a civil action resulting in a final judgment or has settled out of court any civil action or is a party to any civil action involving allegations of fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade or any civil action which was brought by a present or former franchisee or franchisees and which involves or involved the franchise relationship. However, only material individual civil actions need be so listed pursuant to this paragraph, including any group of civil

actions which, irrespective of the materiality of any single such action, in the aggregate is material.

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

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

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

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

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

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

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

Section 41. Section 559.805, Florida Statutes, is repealed.

Section 42. Section 559.807, Florida Statutes, is amended to read:

559.807 Bond or other security required.—

(1) If the business opportunity seller makes any representations set forth in s. 559.801(1)(a)3., the seller must either have obtained a surety bond issued by a surety company authorized to do business in this state or have established a certificate of deposit or a guaranteed letter of credit with a licensed and insured bank or savings institution located in the state. The amount of the bond, certificate of deposit, or guaranteed letter of credit shall be an amount not less than \$50,000.

~~(2) The bond, certificate of deposit, or guaranteed letter of credit shall be in the favor of the department for the use and benefit of any person who is injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of any provision of this part by the seller. Such liability may be enforced by filing an action at law in a court of competent jurisdiction without precluding enforcement in an administrative action pursuant to chapter 120. However, the bond, certificate of deposit, or guaranteed letter of credit shall be amenable and enforceable only by and through administrative proceedings before the department. A money judgment resulting from an action at law, less any award for costs and attorney's fees, shall be prima facie evidence sufficient to establish the value of the claim in an administrative action. It is the intent of the Legislature that such bond, certificate of deposit, or guaranteed letter of credit shall be applicable and liable only for payment of claims duly adjudicated by order of the department. The bond, certificate of deposit, or guaranteed letter of credit shall be open to successive claims but the aggregate amount may not exceed the amount of the bond, certificate of deposit, or guaranteed letter of credit.~~

Section 43. Section 559.813, Florida Statutes, is amended to read:

559.813 Remedies; enforcement.—

(1) If a business opportunity seller uses untrue or misleading statements in the sale of a business opportunity, fails to give the proper disclosures in the manner required by this part, or fails to deliver the equipment, supplies, or products necessary to begin substantial operation of the business within 45 days after of the delivery date stated in the business opportunity contract, or if the contract does not comply with the requirements of this part, the purchaser may, within 1 year after of the date of execution of the contract and upon written notice to the seller, rescind the contract and shall be entitled to receive from the business opportunity seller all sums paid to the business opportunity seller. Upon receipt of such sums, the purchaser shall make available to the seller at the purchaser's address, or at the places at which they are located at the time notice is given, all products, equipment, or supplies received by the purchaser. The purchaser shall not be entitled to unjust enrichment by exercising the remedies provided in this subsection.

~~(2)(a) The department may enter an order imposing one or more of the penalties set forth in paragraph (b) if the department finds that a seller or any of the seller's principal officers or agents:~~

~~1. Violated or is operating in violation of any of the provisions of this part or of the rules adopted or orders issued thereunder;~~

~~2. Made a material false statement in any application, document, or record required to be submitted or retained under this part;~~

~~3. Refused or failed, after notice, to produce any document or record or disclose any information required to be produced or disclosed under this part or the rules of the department;~~

~~4. Made a material false statement in response to any request or investigation by the department, the Department of Legal Affairs, or the state attorney; or~~

~~5. Has intentionally defrauded the public through dishonest or deceptive means.~~

~~(b) Upon a finding as set forth in paragraph (a), the department may enter an order doing one or more of the following:~~

~~1. Issuing a notice of noncompliance pursuant to s. 120.695.~~

~~2. Imposing an administrative fine not to exceed \$5,000 per violation for each act which constitutes a violation of this part or a rule or order.~~

~~3. Directing that the seller or its principal officers or agents cease and desist specified activities.~~

~~4. Refusing to issue or revoking or suspending an advertisement identification number.~~

~~5. Placing the registrant on probation for a period of time, subject to such conditions as the department may specify.~~

~~(c) The administrative proceedings which could result in the entry of an order imposing any of the penalties specified in paragraph (b) shall be conducted in accordance with chapter 120.~~

~~(2)(3)~~ Any purchaser injured by a violation of this part, or by the business opportunity seller's breach of a contract subject to this part or any obligation arising therefrom, may bring an action for recovery of damages, including reasonable attorney ~~attorney's~~ fees.

~~(3)(4)~~ Upon complaint of any person that a business opportunity seller has violated the provisions of this part, the circuit court shall have jurisdiction to enjoin the defendant from further such violations.

~~(4)(5)~~ The Department of Legal Affairs, ~~the Department of Agriculture and Consumer Services,~~ or the state attorney, if a violation of this part occurs in her or his judicial circuit, ~~is~~ are the enforcing ~~authority~~ authorities for purposes of this part, and they may bring civil actions in circuit court for temporary or permanent injunctive relief and may seek other appropriate civil relief, including, but not limited to, a civil penalty not to exceed \$5,000 for each violation, restitution and damages for injured purchasers of business opportunities, and court costs and reasonable ~~attorney~~ attorney's fees.

~~(5)(6)~~ Any remedy provided in this section may be recovered in an appropriate action, or the enforcing authority may terminate any investigation or action upon agreement by the offender to pay a as stipulated civil penalty, to make restitution or pay damages to purchasers, or to satisfy any other relief authorized in this section and requested by the enforcing authority.

~~(6)(7)~~ The remedies provided in this section herein shall be in addition to any other remedies provided by law or in equity.

~~(8)~~ ~~The department has the authority to adopt rules pursuant to chapter 120 to implement this part.~~

Section 44. Section 559.815, Florida Statutes, is amended to read:

559.815 Penalties.—Any person who ~~fails to file with the department as required by s. 559.805 or~~ who commits an act described in s. 559.809 is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 45. Paragraph (a) of subsection (1) of section 559.9221, Florida Statutes, is amended to read:

559.9221 Motor Vehicle Repair Advisory Council.—The Motor Vehicle Repair Advisory Council is created to advise and assist the department in carrying out this part.

(1) The membership of the council may not exceed nine ~~11~~ members appointed by the Commissioner of Agriculture.

(a) ~~Six~~ Eight industry members of the council must be chosen from individuals already engaged in the motor vehicle repair business who are eligible to be registered under this part. The professional members of this council must be licensed under this part. The commissioner shall select one industry member from each of the following categories:

1. Independent automotive mechanics shops.
2. Franchise or company-owned automotive mechanics shops.
3. ~~Independent~~ Automotive collision shops.

~~4. Franchise or company-owned automotive collision shops.~~

~~4.5. Independent Tire dealer.~~

~~6. Franchise or company-owned tire dealer.~~

~~5.7. Independent motor vehicle dealer licensed under s. 320.27.~~

~~6.8. Franchise motor vehicle dealer licensed under s. 320.27.~~

Section 46. Paragraphs (a) and (b) of subsection (9) of section 616.242, Florida Statutes, are amended to read:

616.242 Safety standards for amusement rides.—

(9) INSURANCE REQUIREMENTS.—

(a) An owner may not operate an amusement ride unless the owner has in effect at all times of operation ~~insurance meeting the following requirements:~~

1. an insurance policy in an amount of at least not less than \$1 million per occurrence, \$1 million in the aggregate, which insures the owner of the amusement ride against liability for injury to persons arising out of the use of the amusement ride; ~~or~~

~~2. A bond in a like amount; however, the aggregate liability of the surety under the bond may not exceed the face amount thereof.~~

(b) The policy ~~or bond~~ must be procured from an insurer ~~or surety~~ that is licensed to transact business in this state or that is approved as a surplus lines insurer.

Section 47. Subsection (9) is added to section 721.20, Florida Statutes, to read:

721.20 Licensing requirements; suspension or revocation of license; exceptions to applicability; collection of advance fees for listings unlawful.

(9) A person who meets the definition of a commercial telephone seller or salesperson as defined in s. 501.603 must be licensed under part IV of chapter 501 before doing business in this state under this chapter.

Section 48. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 49. This act shall take effect July 1, 2013.

Approved by the Governor June 28, 2013.

Filed in Office Secretary of State June 28, 2013.