

CHAPTER 98-299

House Bill No. 3785

An act relating to consumer protection; amending s. 213.053, F.S.; authorizing the Department of Revenue to provide certain information to the Department of Agriculture and Consumer Services; amending s. 496.403, F.S.; exempting persons or organizations who solicit on their behalf from ss. 496.401-496.424, F.S.; amending s. 496.404, F.S.; clarifying a definition; amending s. 496.405, F.S.; revising a registration fee schedule for charitable organizations; amending s. 496.406, F.S.; deleting certain registration requirements for certain charitable organizations; amending s. 501.143, F.S.; deleting a specific annual registration date for certain dance studios; amending s. 501.2101, F.S.; authorizing the deposit of moneys received by an enforcing authority for attorney's fees and costs of investigation or litigation to be deposited in the Legal Affairs Revolving Trust Fund; amending s. 501.607, F.S.; clarifying certain procedures for licensing salespersons; amending s. 559.805, F.S.; requiring business opportunity sellers to disclose certain information; amending s. 559.904, F.S.; clarifying registration requirements for motor vehicle repair shop operators; providing a late fee; amending s. 817.415, F.S.; revising requirements for free advertising; providing an effective date.

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

Section 1. Paragraph (o) is added to subsection (7) of section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(o) Names, addresses, and sales tax registration information to the Division of Consumer Services of the Department of Agriculture and Consumers Services in the conduct of its official duties.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 2. Section 496.403, Florida Statutes, is amended to read:

496.403 Application.—Sections 496.401-496.424 do not apply to bona fide religious institutions, educational institutions, and state agencies or other government entities or persons or organizations who solicit or act as

professional fundraising consultants solely on their behalf. Sections 496.401-496.424 do not apply to political contributions solicited in accordance with the election laws of this state.

Section 3. Subsection (16) of section 496.404, Florida Statutes, is amended to read:

496.404 Definitions.—As used in ss. 496.401-496.424:

(16) “Parent organization” means that part of a charitable organization or sponsor which coordinates, supervises, or exercises control over policy, fundraising, and expenditures or assists or advises one or more of the organization’s chapters, branches, or affiliates in this state.

Section 4. Paragraph (a) of subsection (4) of section 496.405, Florida Statutes, is amended to read:

496.405 Registration statements by charitable organizations and sponsors.—

(4)(a) Every charitable organization, sponsor, or parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register under this section must pay a single registration fee. A parent organization filing on behalf of one or more chapters, branches, or affiliates shall total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees shall be assessed as follows:

1.a. Ten dollars, if the contributions received for the last fiscal or calendar year were less than \$5,000; or

b. Ten dollars, if the contributions actually raised or received from the public during the immediately preceding fiscal year by such organization or sponsor are no more than \$25,000 and the fundraising activities of such organization or sponsor are carried on by volunteers, members, officers, or permanent employees, who are not compensated, primarily to solicit such contributions, provided 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;

2. Seventy-five dollars, if the contributions received for the last fiscal year were \$5,000 or more, but less than \$100,000;

3. One hundred twenty-five dollars, if the contributions received for the last fiscal year were \$100,000 or more, but less than \$200,000;

4. Two hundred dollars, if the contributions received for the last fiscal year were \$200,000 or more, but less than \$500,000;

5. Three hundred dollars, if the contributions received for the last fiscal year were \$500,000 or more, but less than \$1 million;

6. Three hundred fifty dollars, if the contributions received for the last fiscal year were \$1 million or more, but less than \$10 million;

7. Four hundred dollars, if the contributions received for the last fiscal year were \$10 million or more.

Section 5. Section 496.406, Florida Statutes, is amended to read:

496.406 Procedures for claiming an exemption from registration.—

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

~~(1)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.

~~(2)2.~~ A charitable organization or sponsor 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.

~~(b) The following charitable organizations and sponsors must follow the procedures in subsection (2) in order to be exempt from the requirements of s. 496.405: charitable organizations or sponsors whose fundraising activities are carried on by volunteers, members, officers, or permanent employees who are not compensated primarily to solicit contributions and which do not actually raise or receive contributions from the public in excess of \$25,000 during the immediately preceding fiscal year, if no part of their assets or income inures to the benefit of or are paid to any officer or member, professional fundraising consultant, professional solicitor, or commercial venturer. Charitable organizations or sponsors which do not intend to solicit and receive contributions in excess of \$25,000, but do receive contributions in excess of that amount, shall file an initial registration statement or annual renewal statement with the department pursuant to s. 496.405 within 30 days after contributions are received in excess of that amount.~~

~~(2) Any charitable organization or sponsor claiming to be exempt under paragraph (1)(b) must submit annually to the department, on forms to be prescribed by the department, accompanied by a \$10 fee, a sworn statement setting forth the name and address of the organization and its principal executive personnel, the purpose of the organization, and the factual basis for the exemption. In addition, a charitable organization or sponsor claiming to be exempt under paragraph (1)(b) must include a copy of any financial statement, report, or return filed with the Internal Revenue Service. The department must issue annually a letter of exemption to those organizations or sponsors exempt under paragraph (1)(b).~~

Section 6. Paragraph (a) of subsection (3) of section 501.143, Florida Statutes, is amended to read:

501.143 Dance Studio Act.—

(3) REGISTRATION OF BALLROOM DANCE STUDIOS.—

(a) Each owner or operator of a ballroom dance studio shall annually register with the department ~~no later than October 1,~~ providing its legal business or trade name, mailing address, and business locations, and the full names, addresses, and telephone numbers of its owners or corporate officers and directors and the Florida agent of the corporation. A copy of all contracts offered to the public shall also be submitted to the department. A certificate evidencing proof of registration shall be issued by the department. This certificate must be prominently displayed at the sales or front desk at each business location of a ballroom dance studio defined in subparagraph (2)(a)1. Ballroom dance studios defined in subparagraph (2)(a)2. must possess the certificate when providing dance studio lessons or services.

Section 7. Subsection (1) of section 501.2101, Florida Statutes, is amended to read:

501.2101 Enforcing authorities; moneys received in certain proceedings; Consumer Frauds Trust Fund.—

(1) Any moneys received by an enforcing authority for attorney's fees and costs of investigation or litigation in proceedings brought under the provisions of s. 501.207, s. 501.208, or s. 501.211 shall be deposited as received in the Consumer Frauds Trust Fund or the Legal Affairs Revolving Trust Fund in the State Treasury.

Section 8. Paragraph (d) of subsection (1) of section 501.607, Florida Statutes, is amended to read:

501.607 Licensure of salespersons.—

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

(d) Whether the applicant, regardless of adjudication conviction, 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.

Section 9. Subsection (2) of section 559.805, Florida Statutes, is amended to read:

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

(2) Upon the filing of the disclosure statement and the posting of a bond or the establishment of a trust account or a guaranteed letter of credit, if any is required, the department shall issue to the business opportunity seller an advertisement identification number. The business opportunity seller shall include and prominently display the advertisement identification number in

all written advertisements, sales materials, promotional documents, and business opportunity contracts.

Section 10. Subsection (8) of section 559.904, Florida Statutes, is amended to read:

559.904 Motor vehicle repair shop registration; application; exemption.—

(8) Each registration must be renewed annually on or before the expiration date of the current registration. A late fee of \$25 shall be paid, in addition to the registration fee or any other penalty, for any registration renewal application that is received by the department after the expiration date of the current registration. The department may not issue the registration until all fees are paid.

Section 11. Subsection (5) of section 817.415, Florida Statutes, is amended to read:

817.415 Florida Free Gift Advertising Law.—

(5) ~~TYPE REQUIREMENTS FOR IN ADVERTISEMENTS.~~—Advertising in which items are offered as free with conditions or obligations necessary to acceptance shall include a clear and conspicuous statement of any such conditions or obligations ~~with equal prominence and type size at least half that of the term “free,”~~ and advertising in compliance herewith shall not be considered deceptive.

Section 12. This act shall take effect October 1 of the year in which enacted.

Became a law without the Governor's approval May 29, 1998.

Filed in Office Secretary of State May 28, 1998.