

1 A bill to be entitled
2 An act relating to consumer services; amending s.
3 20.14, F.S.; removing the Division of Standards from
4 within the Department of Agriculture and Consumer
5 Services; repealing s. 366.85, F.S.; directing the
6 Division of Consumer Services to prepare a list of
7 sources for energy conservation products or services;
8 amending s. 472.005, F.S.; redefining the term
9 "license" and defining the terms "consumer member" and
10 "licensee" for purposes of provisions governing
11 surveyors and mappers; amending s. 472.006, F.S.;
12 directing the Department of Agriculture and Consumer
13 Services to work cooperatively with the Department of
14 Revenue to implement an automated method of disclosing
15 information related to licensees; authorizing the
16 Department of Agriculture and Consumer Services to
17 suspend or deny the license of any licensee found not
18 to be in compliance with a support order, subpoena,
19 order to show cause, or written agreement; providing
20 for reinstatement of a denied or suspended license;
21 relieving the department of certain liability
22 associated with the denial or suspension of a license;
23 amending s. 472.011, F.S.; authorizing the department
24 to waive license renewal fees for land surveyors and
25 mappers under certain circumstances; authorizing the
26 collection of an existing special assessment from
27 inactive and delinquent licensees; amending s.
28 472.0131, F.S., relating to examinations; making

PCS for HB 749

ORIGINAL

2012

29 technical changes; amending s. 472.015, F.S.;

30 authorizing the department to require land surveyors

31 or mappers to submit their social security numbers

32 when applying for initial licensure or license

33 renewal; providing conditions under which an

34 application is deemed received; providing conditions

35 under which the department may issue a license by

36 endorsement; requiring an applicant to provide his or

37 her social security number as required pursuant to

38 federal law; specifying how a social security number

39 may be used; amending s. 472.018, F.S., relating to

40 continuing education; making technical changes;

41 requiring that continuing education providers

42 electronically provide certain information to the

43 department; providing timeframes for reporting;

44 requiring that the department establish a system to

45 monitor licensee compliance with continuing education

46 requirements; defining the term "monitor"; authorizing

47 the department to refuse to renew a license until the

48 applicant satisfies continuing education requirements;

49 authorizing the department or board to impose

50 additional penalties against applicants who fail to

51 satisfy additional requirements; amending s. 472.0202,

52 F.S.; conforming a cross-reference; amending s.

53 472.0203, F.S.; providing for license renewal

54 notification by the department to be sent

55 electronically to the licensee's last known e-mail

56 address; amending s. 472.025, F.S.; providing that a

Page 2 of 52

PCS for HB 749.DOCX

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

PCS for HB 749

ORIGINAL

2012

57 professional surveyor or mapper whose license is
58 revoked or suspended must return his or her seal to
59 the executive director of the board, rather than to
60 the secretary; creating s. 472.0337, F.S.; authorizing
61 the department to administer oaths, take depositions,
62 make inspections, issue and serve subpoenas and other
63 process, and compel the attendance of witnesses and
64 production of certain documents; providing for
65 challenges to and enforcement of subpoenas and orders;
66 amending s. 472.0351, F.S.; revising grounds for
67 discipline; eliminating certain actions by a licensee
68 which are grounds for disciplinary action; specifying
69 what constitutes an action against a license in
70 another state, territory, or country; specifying that
71 the board may enter an order against a surveyor or
72 mapper who committed certain violations before
73 obtaining a license; authorizing the board to require
74 corrective action; prohibiting the department from
75 issuing to or renewing the license of a person or
76 business entity that has been assessed a fine,
77 interest, costs, or attorney fees associated with an
78 investigation or prosecution until the person pays
79 them in full or complies with or satisfies all terms
80 and conditions of the final order; creating s.
81 472.0357, F.S.; providing penalties for knowingly
82 giving false information in the course of applying for
83 or obtaining a license; amending s. 493.6105, F.S.;

84 authorizing the Department of Agriculture and Consumer

85 Services to waive firearms training requirements for
 86 the initial licensure of private investigative,
 87 private security, or repossession services under
 88 certain circumstances; amending s. 493.6113, F.S.;
 89 authorizing the department to waive firearms training
 90 requirements for license renewal of private
 91 investigative, private security, and repossession
 92 services under certain circumstances; amending s.
 93 493.6118, F.S.; providing for disciplinary action to
 94 be taken against certain additional license classes
 95 and schools or training facilities for private
 96 investigators and private security and repossession
 97 services; amending s. 493.6120, F.S.; providing for
 98 penalty provisions to apply to certain additional
 99 license classes and schools or training facilities for
 100 private investigators and private security and
 101 repossession services; amending s. 501.015, F.S.,
 102 relating to the regulation of health studios;
 103 substituting the term "local business tax receipt" for
 104 the term "local occupational license"; amending s.
 105 501.017, F.S.; making technical changes; clarifying
 106 that certain notice be provided in a health studio
 107 contract in at least 10-point boldface type; amending
 108 s. 501.059, F.S., eliminating fees charged to be
 109 placed on "no sales solicitation calls" listing;
 110 providing for administrative fines in lieu of civil
 111 penalties for violations; amending s. 501.605, F.S.;
 112 providing that an applicant for a commercial telephone

113 seller license may provide other valid forms of
 114 identification in lieu of a valid driver license
 115 number; removing the requirement that the applicant
 116 provide his or her social security number on the
 117 application; amending s. 501.607, F.S.; providing that
 118 an applicant for a telemarketing salesperson's license
 119 may provide other valid forms of identification in
 120 lieu of a driver license number; amending s. 501.911,
 121 F.S.; conforming terminology; amending s. 501.913,
 122 F.S.; requiring the registrant of a brand of
 123 antifreeze to assume full responsibility for the
 124 registration; requiring that a registrant of a brand
 125 of antifreeze not in production for distribution in
 126 this state must submit a notarized affidavit attesting
 127 to specified information; requiring that a certain
 128 sample size of each brand of antifreeze accompany the
 129 application for registration; amending s. 507.04,
 130 F.S.; requiring that the Department of Agriculture and
 131 Consumer Services be notified at least 10 days before
 132 any changes are made in the insurance coverage of a
 133 household moving service; amending s. 525.07, F.S.;
 134 requiring at least the name or initials of the
 135 registered mechanic repairing or adjusting a petroleum
 136 fuel measuring devise; amending s. 526.143, F.S.;
 137 authorizing the department to temporarily waive
 138 certain requirements for generators at retail motor
 139 fuel outlets which are used in preparation or response
 140 to an emergency or major disaster in another state;

141 amending s. 526.50, F.S., relating to the sale of
 142 brake fluid; defining the terms "brand" and "formula";
 143 amending s. 526.51, F.S.; conforming terminology;
 144 providing criteria for reregistering a previously
 145 registered brand and formula combination of brake
 146 fluid; providing for a fine for late submission of the
 147 application for reregistration and required materials;
 148 requiring a registrant to submit a notarized affidavit
 149 attesting that specified conditions have been
 150 satisfied if a registered brand and formula
 151 combination is not in production for distribution in
 152 this state; amending s. 526.52, F.S.; providing
 153 alternative criteria under which a brand of brake
 154 fluid may satisfy branding requirements; amending s.
 155 526.53, F.S.; conforming terminology; requiring that
 156 stop-sale orders be served by the department on the
 157 owner of the brand name, the distributor, or other
 158 entity responsible for selling or distributing the
 159 product; providing that the department's
 160 representative, with the consent of the department,
 161 may dispose of certain unregistered brake fluid;
 162 amending s. 526.55, F.S.; replacing criminal sanctions
 163 with administrative and monetary sanctions for
 164 violations of laws regulating the sale of brake fluid;
 165 amending s. 539.001, F.S.; eliminating the requirement
 166 that a pawnshop provide the Department of Agriculture
 167 and Consumer Services notice of a change in its
 168 location by certified or registered mail; amending s.

169 559.805, F.S.; eliminating a requirement that sellers
 170 of business opportunities provide the department with
 171 the social security numbers of their independent
 172 agents; amending s. 559.904, F.S., relating to the
 173 regulation of motor vehicle repair shops; substituting
 174 the term "business tax receipt" for the term
 175 "occupational license"; repealing s. 559.922, F.S.;
 176 relating to motor vehicle repair training financial
 177 assistance; amending s. 559.928, F.S., relating to the
 178 regulation of sellers of travel; substituting the term
 179 "business tax receipt" for the term "occupational
 180 license"; eliminating a requirement that an
 181 independent travel agent provide his or her social
 182 security number to the department; amending s.
 183 559.9285, F.S.; conforming a cross-reference; amending
 184 s. 559.935, F.S., relating to an exemption from
 185 regulation provided for certain sellers of travel;
 186 substituting the term "business tax receipt" for the
 187 term "occupational license"; amending s. 570.29, F.S.;
 188 conforming terminology; repealing s. 570.46, F.S.,
 189 relating to the powers and duties of the Division of
 190 Standards; repealing s. 570.47, F.S., relating to the
 191 qualifications and duties of the director of the
 192 Division of Standards; amending s. 570.544, F.S.;
 193 conforming terminology; specifying the powers and
 194 duties of the director of the Division of Consumer
 195 Services; amending s. 616.242, F.S.; removing an

196 | obsolete reference to the Bureau of Fair Rides
 197 | Inspection; providing an effective date.

198 |
 199 | Be It Enacted by the Legislature of the State of Florida:
 200 |

201 | Section 1. Paragraph (e) of subsection (2) of section
 202 | 20.14, Florida Statutes, is amended to read:

203 | 20.14 Department of Agriculture and Consumer Services.—
 204 | There is created a Department of Agriculture and Consumer
 205 | Services.

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

208 | ~~(1) Standards.~~

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

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

213 | 472.005 Definitions.—As used in ss. 472.001-472.037:

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

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

222 | (16) "Licensee" means any person or business entity that
 223 | has been issued, pursuant to this chapter, a registration,

224 certificate, or license by the department.

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

227 472.006 Department; powers and duties.—The department
228 shall:

229 (12) Work cooperatively with the Department of Revenue to
230 implement an automated method for periodically disclosing
231 information relating to current licensees to the Department of
232 Revenue in order to further the public policy of reducing the
233 state's financial burden as a result of family desertion and
234 nonsupport of dependent children as provided in s. 409.2551. The
235 department shall, if directed by the court or the Department of
236 Revenue, pursuant to s. 409.2598, suspend or deny the license of
237 any licensee who is found to not be in compliance with a support
238 order, subpoena, order to show cause, or written agreement
239 entered into by the licensee with the Department of Revenue. The
240 department shall issue or reinstate the license without
241 additional charge to the licensee if notified by the court or
242 the Department of Revenue that the licensee has complied with
243 the terms of the support order. The department is not liable for
244 any license denial or suspension resulting from the discharge of
245 its duties under this subsection.

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

248 472.011 Fees.—

249 (1) The board, by rule, may establish fees to be paid for
250 applications, examination, reexamination, licensing and renewal,
251 inactive status application and reactivation of inactive

252 licenses, recordmaking and recordkeeping, and applications for
 253 providers of continuing education. The board may also establish
 254 by rule a delinquency fee. The board shall establish fees that
 255 are adequate to ensure the continued operation of the board.
 256 Fees shall be based on department estimates of the revenue
 257 required to implement ss. 472.001-472.037 and the provisions of
 258 law with respect to the regulation of surveyors and mappers. If
 259 the department determines, based on estimates of available
 260 revenue collected pursuant to this section, that the General
 261 Inspection Trust Fund contains funds that exceed the amount
 262 required to cover the necessary functions of the board, the
 263 department shall, by rule, waive the license renewal fees for
 264 licensees under this chapter for a period not to exceed 2 years.

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

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

273 472.0131 Examinations; development; administration.—

274 (3) Except for national examinations approved and
 275 administered pursuant to paragraph (1)(d), the department shall
 276 provide procedures for applicants who have taken and failed an
 277 examination developed by the department or a contracted vendor
 278 to review their examination questions, answers, papers, grades,
 279 and grading key for the questions the candidate answered

280 | incorrectly on his or her last examination or, if not feasible,
 281 | the parts of the examination failed. Applicants shall bear the
 282 | actual cost for the department to provide examination review
 283 | pursuant to this subsection. An applicant may waive in writing
 284 | the confidentiality of his or her examination grades.

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

288 | 472.015 Licensure.—

289 | (1) Notwithstanding any other law, the department is the
 290 | sole authority for determining the contents of any documents to
 291 | be submitted for initial licensure and licensure renewal. The
 292 | ~~Such~~ documents may contain information including, as
 293 | appropriate: demographics, social security number, education,
 294 | work history, personal background, criminal history, finances,
 295 | business information, complaints, inspections, investigations,
 296 | discipline, bonding, signature notarization, photographs,
 297 | performance periods, reciprocity, local government approvals,
 298 | supporting documentation, periodic reporting requirements,
 299 | continuing education requirements, and ongoing education
 300 | monitoring. The applicant shall supplement his or her
 301 | ~~application may be supplemented~~ as needed to reflect any
 302 | material change in any circumstance or condition stated in the
 303 | application which takes place between the initial filing of the
 304 | application and the final grant or denial of the license and
 305 | which might affect the decision of the department. An
 306 | application is received for the purposes of s. 120.60 upon
 307 | receipt by the department of the application, submitted in the

308 format prescribed by the department, the application fee set by
 309 the board, and any other documentation or fee required by law or
 310 rule to be submitted with the application in order for the
 311 application to be complete.

312 (6)

313 (b) The department may ~~shall~~ not issue a license by
 314 endorsement to any applicant who is under investigation in this
 315 state or any other state or any other jurisdiction ~~another state~~
 316 for any act that would constitute a violation of this ss.
 317 ~~472.001-472.037 or chapter 455~~ until ~~such time as~~ the
 318 investigation is complete and disciplinary proceedings have been
 319 terminated.

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

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

331 472.018 Continuing education.—The department may not renew
 332 a license until the licensee submits proof satisfactory to the
 333 board that during the 2 years prior to her or his application
 334 for renewal the licensee has completed at least 24 hours of
 335 continuing education.

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

357 (13) Each continuing education provider shall provide to
 358 the department, in an electronic format determined by the
 359 department, information regarding the continuing education
 360 status of licensees which the department determines is necessary
 361 to carry out its duties under this chapter. After a licensee
 362 completes a course, the information must be submitted
 363 electronically by the continuing education provider to the

364 department within 30 calendar days after completion. However,
 365 beginning on the 30th day before the renewal deadline or before
 366 the renewal date, whichever occurs sooner, the continuing
 367 education provider shall electronically report such information
 368 to the department within 10 business days after completion.

369 (14) The department shall establish a system to monitor
 370 licensee compliance with continuing education requirements and
 371 to determine the continuing education status of each licensee.
 372 As used in this subsection, the term "monitor" means the act of
 373 determining, for each licensee, whether the licensee is in full
 374 compliance with applicable continuing education requirements as
 375 of the date of the licensee's application for license renewal.

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

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

383 472.0202 Inactive and delinquent status.—

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

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

391 472.0203 Renewal and cancellation notices.—

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

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

399 472.025 Seals.—

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

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

417 472.0337 Power to administer oaths, take depositions, and
 418 issue subpoenas.—For the purpose of an investigation or
 419 proceeding conducted by the department, the department shall

420 administer oaths, take depositions, make inspections, issue
 421 subpoenas which must be supported by affidavit, serve subpoenas
 422 and other process, and compel the attendance of witnesses and
 423 the production of books, papers, documents, and other evidence.
 424 Challenges to, and enforcement of, the subpoenas and orders
 425 shall be conducted as provided in s. 120.569.

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

428 472.0351 Grounds for discipline; penalties; enforcement.—

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

432 (a) Violation of any provision of s. 472.031;

433 (b) Attempting to procure a license to practice surveying
 434 and mapping by bribery or fraudulent misrepresentations;

435 (c) Having a license to practice surveying and mapping
 436 revoked, suspended, or otherwise acted against, including the
 437 denial of licensure, by the licensing authority of another
 438 state, territory, or country, for a violation that constitutes a
 439 violation under the laws of this state. The acceptance of a
 440 relinquishment of licensure, stipulation, consent order, or
 441 other settlement offered in response to or in anticipation of
 442 the filing of charges against the license by a licensing
 443 authority is an action against the license;

444 (d) Being convicted or found guilty of, or entering a plea
 445 of guilty, no contest, or nolo contendere to, regardless of
 446 adjudication, a crime in any jurisdiction which directly relates
 447 to the practice of surveying and mapping or the ability to

448 practice surveying and mapping;

449 (e) Making or filing a report or record that the licensee
 450 knows to be false, willfully failing to file a report or record
 451 required by state or federal law, willfully impeding or
 452 obstructing such filing, or inducing another person to impede or
 453 obstruct such filing. Such reports or records ~~shall~~ include only
 454 those that are signed in the capacity of a registered surveyor
 455 and mapper;

456 (f) Advertising goods or services in a manner that is
 457 fraudulent, false, deceptive, or misleading in form or content;

458 (g) Upon proof that the licensee is guilty of fraud or
 459 deceit, or of negligence, incompetency, or misconduct, in the
 460 practice of surveying and mapping;

461 (h) Failing to perform a ~~any~~ statutory or legal obligation
 462 placed upon a licensed surveyor and mapper; violating a ~~any~~
 463 provision of this chapter, a rule of the board or department, or
 464 a lawful order of the board or department ~~previously entered in~~
 465 ~~a disciplinary hearing~~; or failing to comply with a lawfully
 466 issued subpoena of the department;

467 (i) Practicing on a revoked, suspended, inactive, or
 468 delinquent license;

469 ~~(j) Making misleading, deceptive, or fraudulent~~
 470 ~~representations in or related to the practice of the licensee's~~
 471 ~~profession;~~

472 ~~(k) Intentionally violating any rule adopted by the board~~
 473 ~~or the department, as appropriate;~~

474 ~~(l) Having a license or the authority to practice the~~
 475 ~~regulated profession revoked, suspended, or otherwise acted~~

476 ~~against, including the denial of licensure, by the licensing~~
 477 ~~authority of any jurisdiction, including its agencies or~~
 478 ~~subdivisions, for a violation that would constitute a violation~~
 479 ~~under Florida law;~~

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

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

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

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

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

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

501 (p) ~~(s)~~ Delegating or contracting for the performance of
 502 professional responsibilities by a person when the licensee
 503 delegating or contracting for performance of such

504 responsibilities knows, or has reason to know, such person is
 505 not qualified by training, experience, and authorization when
 506 required to perform them; or

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

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

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

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

521 (b) Revocation or suspension of a license.

522 (c) Imposition of an administrative fine not to exceed
 523 \$1,000 for each count or separate offense.

524 (d) Issuance of a reprimand.

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

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

534 (g) Corrective action.

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

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

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

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

556 ~~(5) In addition to, or in lieu of, any other remedy or~~
 557 ~~criminal prosecution, the department may file a proceeding in~~
 558 ~~the name of the state seeking issuance of an injunction or a~~
 559 ~~writ of mandamus against any person who violates any of the~~

560 ~~provisions of this chapter, or any provision of law with respect~~
 561 ~~to professions regulated by the department, or any board~~
 562 ~~therein, or the rules adopted pursuant thereto.~~

563 (5)~~(6)~~ If the board determines that revocation of a
 564 license is the appropriate penalty, the revocation shall be
 565 permanent. However, the board may establish, by rule,
 566 requirements for reapplication by applicants whose licenses have
 567 been permanently revoked. Such requirements may include, but are
 568 ~~shall~~ not be limited to, satisfying current requirements for an
 569 initial license.

570 Section 14. Section 472.0357, Florida Statutes, is created
 571 to read:

572 472.0357 Penalty for giving false information.—In addition
 573 to, or in lieu of, any other disciplinary action imposed
 574 pursuant to s. 472.0351, a person who knowingly gives false
 575 information in the course of applying for or obtaining a license
 576 from the department or the board, or who attempts to obtain or
 577 obtains a license from the department or the board by knowingly
 578 providing misleading statements or misrepresentations commits a
 579 felony of the third degree, punishable as provided in s.
 580 775.082, s. 775.083, or s. 775.084.

581 Section 15. Subsection (5) of section 493.6105, Florida
 582 Statutes, is amended to read:

583 493.6105 Initial application for license.—

584 (5) In addition to the requirements outlined in subsection
 585 (3), an applicant for a Class "G" license must satisfy minimum
 586 training criteria for firearms established by rule of the
 587 department, which training criteria includes, but is not limited

588 to, 28 hours of range and classroom training taught and
 589 administered by a Class "K" licensee; however, no more than 8
 590 hours of such training shall consist of range training. The
 591 department may waive the foregoing firearms training requirement
 592 if:

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

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

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

612 Section 16. Paragraph (b) of subsection (3) of section
 613 493.6113, Florida Statutes, is amended to read:

614 493.6113 Renewal application for licensure.—

615 (3) Each licensee is responsible for renewing his or her

616 license on or before its expiration by filing with the
 617 department an application for renewal accompanied by payment of
 618 the prescribed license fee.

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

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

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

641 3. The applicant submits a valid firearm certificate among
 642 those specified in s. 493.6105(6) (a) and provides proof of
 643 having completed requalification training during the preceding 2

644 years of the licensure period.

645 Section 17. Subsection (6) of section 493.6118, Florida
 646 Statutes, is amended to read:

647 493.6118 Grounds for disciplinary action.—

648 (6) The agency or Class "DS" or "RS" license and the
 649 approval or license of each officer, partner, or owner of the
 650 agency, school, or training facility are automatically suspended
 651 upon entry of a final order imposing an administrative fine
 652 against the agency, school, or training facility, until the fine
 653 is paid, if 30 calendar days have elapsed since the entry of the
 654 final order. All owners and corporate or agency officers or
 655 partners are jointly and severally liable for ~~agency~~ fines
 656 levied against the agency, school, or training facility. ~~Neither~~
 657 The agency or Class "DS" or "RS" license or the approval or
 658 license of any officer, partner, or owner of the agency, school,
 659 or training facility may not be renewed, and ~~nor may~~ an
 660 application may not be approved, if the owner, licensee, or
 661 applicant is liable for an outstanding administrative fine
 662 imposed under this chapter. An individual's approval or license
 663 becomes automatically suspended if a fine imposed against the
 664 individual or his or her agency is not paid within 30 days after
 665 the date of the final order, and remains suspended until the
 666 fine is paid. Notwithstanding the provisions of this subsection,
 667 an individual's approval or license may not be suspended and ~~nor~~
 668 ~~may~~ an application may not be denied if ~~when~~ the licensee or the
 669 applicant has an appeal from a final order pending in any
 670 appellate court.

671 Section 18. Subsection (4) of section 493.6120, Florida

672 Statutes, is amended to read:

673 493.6120 Violations; penalty.—

674 (4) A ~~Any~~ person who was an owner, officer, partner, or
 675 manager of a licensed agency or a Class "DS" or "RS" school or
 676 training facility at the time of any activity that is the basis
 677 for revocation of the agency or branch office license or the
 678 school or training facility license and who knew or should have
 679 known of the activity, shall have his or her personal licenses
 680 or approval suspended for 3 years and may not have any financial
 681 interest in or be employed in any capacity by a licensed agency
 682 or a school or training facility during the period of
 683 suspension.

684 Section 19. Subsection (7) of section 501.015, Florida
 685 Statutes, is amended to read:

686 501.015 Health studios; registration requirements and
 687 fees.—Each health studio shall:

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

694 Section 20. Subsection (1) of section 501.017, Florida
 695 Statutes, is amended to read:

696 501.017 Health studios; contracts.—

697 (1) Each ~~Every~~ contract for the sale of future health
 698 studio services which is paid for in advance or which the buyer
 699 agrees to pay for in future installment payments shall be in

700 writing and shall contain, contractual provisions to the
 701 contrary notwithstanding, in immediate proximity to the space
 702 reserved in the contract for the signature of the buyer, and in
 703 at least 10-point boldfaced type, language substantially
 704 equivalent to the following:

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

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

727 2. A provision that notice of intent to cancel by the

728 | buyer shall be given in writing to the health studio. ~~The~~ ~~Such a~~
 729 | notice of cancellation from the consumer terminates ~~shall also~~
 730 | ~~terminate~~ automatically the consumer's obligation to any entity
 731 | to whom the health studio has subrogated or assigned the
 732 | consumer's contract. If the health studio wishes to enforce the
 733 | ~~such~~ contract after receipt of the notice ~~such showing~~, it may
 734 | request the department to determine the sufficiency of the
 735 | notice ~~showing~~.

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

- 743 | a. Upon sale, for not more than 14 consecutive days; or
- 744 | b. During ownership, for not more than 7 consecutive days
- 745 | and not more than two periods of 7 consecutive days in any
- 746 | calendar year.

747 |
 748 | A refund shall be issued within 30 days after receipt of the
 749 | notice of cancellation made pursuant to this paragraph.

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

753 | (d) A provision for the cancellation of the contract if
 754 | the buyer dies or becomes physically unable to avail himself or
 755 | herself of a substantial portion of those services which he or

756 she used from the commencement of the contract until the time of
 757 disability, with refund of funds paid or accepted in payment of
 758 the contract in an amount computed by dividing the contract
 759 price by the number of weeks in the contract term and
 760 multiplying the result by the number of weeks remaining in the
 761 contract term. The contract may require a buyer or the buyer's
 762 estate seeking relief under this paragraph to provide proof of
 763 disability or death. A physical disability sufficient to warrant
 764 cancellation of the contract by the buyer is ~~shall be~~
 765 established if the buyer furnishes to the health studio a
 766 certification of such disability by a physician licensed under
 767 chapter 458, chapter 459, chapter 460, or chapter 461 to the
 768 extent the diagnosis or treatment of the disability is within
 769 the physician's scope of practice. A refund shall be issued
 770 within 30 days after receipt of the notice of cancellation made
 771 pursuant to this paragraph.

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

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

782 Section 21. Paragraph (d) of subsection (1), subsection
 783 (3), of section 501.059, Florida Statutes, are amended and

784 subsection (10) is renumbered as subsection (11), and the new
 785 subsection (10) is added to that section to read:

786 501.059 Telephone solicitation.-

787 (1) As used in this section:

788 ~~(d) "Commission" means the Florida Public Service~~
 789 ~~Commission.~~

790 (d)~~(e)~~ "Telephone solicitor" means any natural person,
 791 firm, organization, partnership, association, or corporation, or
 792 a subsidiary or affiliate thereof, doing business in this state,
 793 who makes or causes to be made a telephonic sales call,
 794 including, but not limited to, calls made by use of automated
 795 dialing or recorded message devices.

796 (e)~~(f)~~ "Consumer" means an actual or prospective
 797 purchaser, lessee, or recipient of consumer goods or services.

798 (f)~~(g)~~ "Merchant" means a person who, directly or
 799 indirectly, offers or makes available to consumers any consumer
 800 goods or services.

801 (g)~~(h)~~ "Doing business in this state" refers to businesses
 802 who conduct telephonic sales calls from a location in Florida or
 803 from other states or nations to consumers located in Florida.

804 (h)~~(i)~~ "Department" means the Department of Agriculture
 805 and Consumer Services.

806 (3) (a) Any residential, mobile, or telephonic paging
 807 device telephone subscriber desiring to be placed on a "no sales
 808 solicitation calls" listing indicating that the subscriber does
 809 not wish to receive unsolicited telephonic sales calls may
 810 notify the department and be placed on that listing for a period
 811 of five years ~~upon receipt by the department of a \$10 initial~~

812 ~~listing charge. This listing shall be renewed by the department~~
 813 ~~annually for each consumer upon receipt of a renewal notice and~~
 814 ~~a \$5 assessment.~~

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

819 (d) If, pursuant to United States Code, title 15, section
 820 6102(a), the Federal Trade Commission establishes a national
 821 list of telephone numbers of subscribers who object to receiving
 822 telephone solicitations, the department shall include that part
 823 of such single national database that relates to Florida in the
 824 listing established pursuant to this section.

825 (10) As an alternative to the civil penalties provided in
 826 subsection (8) above, the department may impose an
 827 administrative fine not to exceed \$1,000 for each act or
 828 omission which constitutes a violation of this section. The
 829 administrative proceedings which could result in the entry of an
 830 order imposing administrative penalties shall be conducted in
 831 accordance with Chapter 120.

832 ~~(11)(10) Telecommunications~~ The commission shall by rule
 833 ~~ensure that telecommunications companies shall~~ inform their
 834 customers of the provisions of this section. The notification
 835 may be made by:

836 (a) Annual inserts in the billing statements mailed to
 837 customers; and

838 (b) Conspicuous publication of the notice in the consumer
 839 information pages of the local telephone directories.

840 Section 22. Paragraphs (a) and (1) of subsection (2) of
 841 section 501.605, Florida Statutes, are amended to read:
 842 501.605 Licensure of commercial telephone sellers.—
 843 (2) An applicant for a license as a commercial telephone
 844 seller must submit to the department, in such form as it
 845 prescribes, a written application for the license. The
 846 application must set forth the following information:
 847 (a) The true name, date of birth, driver ~~driver's~~ license
 848 number or other valid form of identification, ~~social security~~
 849 ~~number~~, and home address of the applicant, including each name
 850 under which he or she intends to do business.
 851 (1) The true name, current home address, date of birth,
 852 ~~social security number~~, and all other names by which known, or
 853 previously known, of each:
 854 1. Principal officer, director, trustee, shareholder,
 855 owner, or partner of the applicant, and of each other person
 856 responsible for the management of the business of the applicant.
 857 2. Office manager or other person principally responsible
 858 for a location from which the applicant will do business.
 859 3. Salesperson or other person to be employed by the
 860 applicant.
 861
 862 The application shall be accompanied by a copy of any: Script,
 863 outline, or presentation the applicant will require or suggest a
 864 salesperson to use when soliciting, or, if no such document is
 865 used, a statement to that effect; sales information or
 866 literature to be provided by the applicant to a salesperson; and
 867 sales information or literature to be provided by the applicant

868 to a purchaser in connection with any solicitation.

869 Section 23. Paragraph (a) of subsection (1) of section
870 501.607, Florida Statutes, is amended to read:

871 501.607 Licensure of salespersons.—

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

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

879 Section 24. Section 501.911, Florida Statutes, is amended
880 to read:

881 501.911 Administration of act.—Sections 501.91-501.923
882 shall be administered by the ~~Division of Standards of the~~
883 Department of Agriculture and Consumer Services.

884 Section 25. Subsections (1) and (2) of section 501.913,
885 Florida Statutes, are amended to read:

886 501.913 Registration.—

887 (1) Each brand of antifreeze to be distributed in this
888 state shall be registered with the department before ~~prior to~~
889 distribution. The person whose name appears on the label, the
890 manufacturer, or the packager shall make application to the
891 department on forms provided by the department no later than
892 July 1 of each year. The registrant assumes, by application to
893 register the brand, full responsibility for the registration,
894 quality, and quantity of the product sold, offered, or exposed
895 for sale in this state. If a registered brand is not in

896 production for distribution in this state and to ensure any
 897 remaining product that is still available for sale in the state
 898 is properly registered, the registrant must submit a notarized
 899 affidavit on company letterhead to the department certifying
 900 that:

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

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

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

908
 909 If production resumes, the brand must be reregistered before it
 910 is distributed in this state.

911 (2) The completed application shall be accompanied by:

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

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

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

917 Section 26. Subsection (3) of section 507.04, Florida
 918 Statutes, is amended to read:

919 507.04 Required insurance coverages; liability
 920 limitations; valuation coverage.—

921 (3) INSURANCE COVERAGES.—The insurance coverages required
 922 under paragraph (1) (a) and subsection (2) must be issued by an
 923 insurance company or carrier licensed to transact business in

924 this state under the Florida Insurance Code as designated in s.
 925 624.01. The department shall require a mover to present a
 926 certificate of insurance of the required coverages before
 927 issuance or renewal of a registration certificate under s.
 928 507.03. The department shall be named as a certificateholder in
 929 the certificate and must be notified at least 10 ~~30~~ days before
 930 cancellation of ~~any changes in~~ insurance coverage.

931 Section 27. Subsection (7) of section 525.07, Florida
 932 Statutes, is amended to read:

933 525.07 Powers and duties of department; inspections;
 934 unlawful acts.—

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

947 Section 28. Subsection (5) of section 526.143, Florida
 948 Statutes, is amended to read:

949 526.143 Alternate generated power capacity for motor fuel
 950 dispensing facilities.—

951 (5) (a) Each corporation or other entity that owns 10 or

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

963 (b) Each corporation or other entity that owns 10 or more
 964 motor fuel retail outlets located within a single domestic
 965 security region, as determined pursuant to s. 943.0312(1), and
 966 that does not own additional outlets located outside the
 967 domestic security region shall maintain a written document of
 968 agreement with one or more similarly equipped entities for the
 969 use of portable generators that may be used to meet the
 970 requirements of paragraph (a) and that are located within this
 971 state but outside the affected domestic security region. The
 972 agreement may be reciprocal, may allow for payment for services
 973 rendered by the providing entity, and must guarantee the
 974 availability of the portable generators to an affected location
 975 within 24 hours after a disaster.

976 (c) Upon written request, the department may temporarily
 977 waive the requirements in paragraphs (a) and (b) if the
 978 generators are used in preparation for or response to an
 979 emergency or major disaster in another state. The waiver shall

980 be in writing and include a beginning and ending date. The
 981 waiver may provide additional conditions as deemed necessary by
 982 the department. The waiver may be modified or terminated by the
 983 department if the Governor of this state declares an emergency.

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

989 Section 29. Subsections (8) and (9) are added to section
 990 526.50, Florida Statutes, to read:

991 526.50 Definition of terms.—As used in this part:

992 (8) "Brand" means the product name appearing on the label
 993 of a container of brake fluid.

994 (9) "Formula" means the name of the chemical mixture or
 995 composition of the brake fluid product.

996 Section 30. Subsections (1) and (3) of section 526.51,
 997 Florida Statutes, are amended to read:

998 526.51 Registration; renewal and fees; departmental
 999 expenses; cancellation or refusal to issue or renew.—

1000 (1) (a) Application for registration of each brand of brake
 1001 fluid shall be made on forms ~~to be~~ supplied by the department.
 1002 The applicant shall give his or her name and address and the
 1003 brand name of the brake fluid, state that he or she owns the
 1004 brand name and has complete control over the product sold
 1005 thereunder in this state ~~Florida~~, and provide the name and
 1006 address of the resident agent in this state ~~Florida~~. If the
 1007 applicant does not own the brand name but wishes to register the

1008 product with the department, a notarized affidavit that gives
 1009 the applicant full authorization to register the brand name and
 1010 that is signed by the owner of the brand name must accompany the
 1011 application for registration. The affidavit must include all
 1012 affected brand names, the owner's company or corporate name and
 1013 address, the applicant's company or corporate name and address,
 1014 and a statement from the owner authorizing the applicant to
 1015 register the product with the department. The owner of the brand
 1016 name shall maintain complete control over each product sold
 1017 under that brand name in this state. All first-time ~~new product~~
 1018 applications for a brand and formula combination must be
 1019 accompanied by a certified report from an independent testing
 1020 laboratory, setting forth the analysis of the brake fluid which
 1021 shows ~~shall show~~ its quality to be not less than the
 1022 specifications established by the department for brake fluids. A
 1023 sample of not less than 24 fluid ounces of brake fluid shall be
 1024 submitted, in a container or containers, with labels
 1025 representing exactly how the containers of brake fluid will be
 1026 labeled when sold, and the sample and container shall be
 1027 analyzed and inspected by the department ~~Division of Standards~~
 1028 in order that compliance with the department's specifications
 1029 and labeling requirements may be verified. Upon approval of the
 1030 application, the department shall register the brand name of the
 1031 brake fluid and issue to the applicant a permit authorizing the
 1032 registrant to sell the brake fluid in this state during the
 1033 permit year specified in the permit.

1034 (b) Each applicant shall pay a fee of \$100 with each
 1035 application. A permit may be renewed by application to the

1036 department, accompanied by a renewal fee of \$50 on or before the
 1037 last day of the permit year immediately preceding the permit
 1038 year for which application is made for renewal of registration.
 1039 To reregister a previously registered brand and formula
 1040 combination, an applicant must submit a completed application
 1041 and all materials as required in this section to the department
 1042 before the first day of the permit year. A brand and formula
 1043 combination for which a completed application and all materials
 1044 required in this section are not received before the first day
 1045 of the permit year may not be registered with the department
 1046 until a completed application and all materials required in this
 1047 section have been received and approved. If the brand and
 1048 formula combination was previously registered with the
 1049 department and a fee, application, or materials required in this
 1050 section are received after the first day of the permit year, ~~no~~
 1051 any fee not paid when due, there shall accrue a penalty of \$25
 1052 accrues, which shall be added to the ~~renewal~~ fee. Renewals shall
 1053 will be accepted only on brake fluids that have no change in
 1054 formula, composition, or brand name. Any change in formula,
 1055 composition, or brand name of any brake fluid constitutes a new
 1056 product that must be registered in accordance with this part.
 1057 (c) In order to ensure that any remaining product still
 1058 available for sale in this state is properly registered, if a
 1059 registered brand and formula combination is no longer in
 1060 production for distribution in this state, the registrant must
 1061 submit a notarized affidavit on company letterhead to the
 1062 department certifying that:
 1063 1. The stated brand and formula combination is no longer

1064 in production;
 1065 2. The stated brand and formula combination will not be
 1066 distributed in this state; and
 1067 3. All existing product of the stated brand and formula
 1068 combination will be removed by the registrant from the state
 1069 within 30 days after the expiration of the registration or that
 1070 the registrant will reregister the brand and formula combination
 1071 for two subsequent registration periods.

1072
 1073 If production resumes, the brand and formula combination must be
 1074 reregistered before it is again distributed in this state.

1075 (3) The department may cancel or, refuse to issue ~~or~~
 1076 ~~refuse to renew~~ any registration and permit after due notice and
 1077 opportunity to be heard if it finds that the brake fluid is
 1078 adulterated or misbranded or that the registrant has failed to
 1079 comply with the provisions of this part or the rules adopted
 1080 pursuant to this section ~~and regulations promulgated thereunder.~~

1081 Section 31. Paragraph (a) of subsection (3) of section
 1082 526.52, Florida Statutes, is amended to read:

1083 526.52 Specifications; adulteration and misbranding.—

1084 (3) Brake fluid is deemed to be misbranded:

1085 (a) If its container does not bear on its side or top a
 1086 label on which is printed the name and place of business of the
 1087 registrant of the product, the words "brake fluid," and a
 1088 statement that the product therein equals or exceeds the minimum
 1089 specification of the Society of Automotive Engineers for brake
 1090 fluid, heavy-duty-type, the United States Department of
 1091 Transportation Motor Vehicle Safety Standard No. 116, or other

1092 specified standard identified in department rule. ~~By regulation~~
 1093 The department may require by rule that the duty-type
 1094 classification appear on the label.

1095 Section 32. Subsections (1) and (2) of section 526.53,
 1096 Florida Statutes, are amended to read:

1097 526.53 Enforcement; inspection and analysis, stop-sale and
 1098 disposition, regulations.—

1099 (1) The department shall enforce the provisions of this
 1100 part ~~through the Division of Standards,~~ and may sample, inspect,
 1101 analyze, and test any brake fluid manufactured, packed, or sold
 1102 within this state. The department shall have free access during
 1103 business hours to all premises, buildings, vehicles, cars, or
 1104 vessels used in the manufacture, packing, storage, sale, or
 1105 transportation of brake fluid, and may open any box, carton,
 1106 parcel, or container of brake fluid and take samples for
 1107 inspection and analysis or for evidence.

1108 (2) (a) If ~~When~~ any brake fluid is sold in violation of any
 1109 of the provisions of this part, all such brake fluid of the same
 1110 brand name ~~on the same premises on which the violation occurred~~
 1111 shall be placed under a stop-sale order by the department by
 1112 servicing the owner of the brand name, the distributor, or other
 1113 entity responsible for selling or distributing the product in
 1114 this state with the stop-sale order. The department shall
 1115 withdraw its stop-sale order upon the removal of the violation
 1116 or upon voluntary destruction of the product, or other disposal
 1117 approved by the department, under the supervision of the
 1118 department.

1119 (b) In addition to being subject to the stop-sale

1120 procedures ~~above~~, unregistered brake fluid shall be held by the
 1121 department or its representative, at a place to be designated in
 1122 the stop-sale order, until properly registered and released in
 1123 writing by the department or its representative. If application
 1124 has not been made for registration of such product within 30
 1125 days after issue of the stop-sale order, the department or, with
 1126 the consent of the department, the representative may give the
 1127 product that meets legal specifications ~~such product shall be~~
 1128 ~~disposed of by the department~~ to any tax-supported institution
 1129 or agency of the state. If application has not been made for
 1130 registration of the product within 30 days after issuance of the
 1131 stop-order sale and the product fails to meet legal
 1132 specifications, the product may be disposed of as if the brake
 1133 ~~fluid meets legal specifications or by other disposal~~ authorized
 1134 by rule of the department ~~if it fails to meet legal~~
 1135 ~~specifications.~~

1136 Section 33. Section 526.55, Florida Statutes, is amended
 1137 to read:

1138 526.55 Violation and penalties.—

1139 (1) It is unlawful:

1140 (a) ~~(1)~~ To sell any brake fluid that is adulterated or
 1141 misbranded, not registered or on which a permit has not been
 1142 issued.

1143 (b) ~~(2)~~ For anyone to remove any stop-sale order placed on
 1144 a product by the department, or any product upon which a stop-
 1145 sale order has been placed.

1146 (2) If the department finds that a person has violated or
 1147 is operating in violation of ss. 526.50-526.56 or the rules or

1148 orders adopted thereunder, the department may, by order:
 1149 (a) Issue a notice of noncompliance pursuant to s.
 1150 120.695;
 1151 (b) Impose an administrative fine not to exceed \$5,000 for
 1152 each violation;
 1153 (c) Direct that the person cease and desist specified
 1154 activities;
 1155 (d) Revoke or suspend a registration, or refuse to
 1156 register a product; or
 1157 (e) Place the registrant on probation for a period of
 1158 time, subject to conditions as the department may specify.
 1159 (3) The administrative proceedings seeking entry of an
 1160 order imposing any of the penalties specified in subsection (2)
 1161 are governed by chapter 120.
 1162 (4) If a registrant is found to be in violation of ss.
 1163 526.50-526.56 and fails to pay a fine within 30 days after
 1164 imposition of the fine, the department may suspend all
 1165 registrations issued to the registrant by the department until
 1166 the fine is paid.
 1167 (5) All fines collected by the department under this
 1168 section shall be deposited into the General Inspection Trust
 1169 Fund.
 1170 ~~(3) Any person who violates any of the provisions of this~~
 1171 ~~part or any rule or regulation promulgated thereunder shall, for~~
 1172 ~~the first offense, be guilty of a misdemeanor of the second~~
 1173 ~~degree, punishable as provided in s. 775.082 or s. 775.083, and,~~
 1174 ~~for a second or subsequent offense, shall be guilty of a~~
 1175 ~~misdemeanor of the first degree, punishable as provided in s.~~

1176 ~~775.082 or s. 775.083.~~

1177 Section 34. Paragraph (b) of subsection (3) of section
1178 539.001, Florida Statutes, is amended to read:

1179 539.001 The Florida Pawnbroking Act.—

1180 (3) LICENSE REQUIRED.—

1181 (b) A licensee who seeks to move a pawnshop to another
1182 location must give written notice ~~30 days' prior written notice~~
1183 to the agency at least 30 days before the move ~~by certified or~~
1184 ~~registered mail, return receipt requested,~~ and the agency must
1185 ~~then~~ amend the license to indicate the new location. The
1186 licensee must also give such written notice to the appropriate
1187 law enforcement official.

1188 Section 35. Subsection (1) of section 559.805, Florida
1189 Statutes, is amended to read:

1190 559.805 Filings with the department; disclosure of
1191 advertisement identification number.—

1192 (1) Every seller of a business opportunity shall annually
1193 file with the department a copy of the disclosure statement
1194 required by s. 559.803 before ~~prior to~~ placing an advertisement
1195 or making any other representation designed to offer to, sell
1196 to, or solicit an offer to buy a business opportunity from a
1197 prospective purchaser in this state and shall update this filing
1198 by reporting any material change in the required information
1199 within 30 days after the material change occurs. An
1200 advertisement is not placed in the state merely because the
1201 publisher circulates, or there is circulated on his or her
1202 behalf in the state, any bona fide newspaper or other
1203 publication of general, regular, and paid circulation which has

1204 had more than two-thirds of its circulation during the past 12
 1205 months outside the state or because a radio or television
 1206 program originating outside the state is received in the state.
 1207 If the seller is required by s. 559.807 to provide a bond or
 1208 establish a trust account or guaranteed letter of credit, he or
 1209 she shall contemporaneously file with the department a copy of
 1210 the bond, a copy of the formal notification by the depository
 1211 that the trust account is established, or a copy of the
 1212 guaranteed letter of credit. Every seller of a business
 1213 opportunity shall file with the department a list of independent
 1214 agents who will engage in the offer or sale of business
 1215 opportunities on behalf of the seller in this state. This list
 1216 must be kept current and shall include the following
 1217 information: name, home and business address, telephone number,
 1218 present employer, ~~social security number,~~ and birth date. A No
 1219 person may not ~~shall be allowed to~~ offer or sell business
 1220 opportunities unless the required information has been provided
 1221 to the department.

1222 Section 36. Subsection (7) of section 559.904, Florida
 1223 Statutes, is amended to read:

1224 559.904 Motor vehicle repair shop registration;
 1225 application; exemption.—

1226 (7) Any person applying for or renewing a local business
 1227 tax receipt ~~occupational license on or after October 1, 1993,~~ to
 1228 engage in business as a motor vehicle repair shop must exhibit
 1229 an active registration certificate from the department before
 1230 the local business tax receipt ~~occupational license~~ may be
 1231 issued or renewed.

1232 Section 37. Section 559.922, Florida Statutes, is
 1233 repealed.

1234 Section 38. Subsections (1), (3), and (4) of section
 1235 559.928, Florida Statutes, are amended to read:

1236 559.928 Registration.—

1237 (1) Each seller of travel shall annually register with the
 1238 department, providing: its legal business or trade name, mailing
 1239 address, and business locations; the full names, addresses, and
 1240 telephone numbers of its owners or corporate officers and
 1241 directors and the Florida agent of the corporation; a statement
 1242 whether it is a domestic or foreign corporation, its state and
 1243 date of incorporation, its charter number, and, if a foreign
 1244 corporation, the date it registered with this state ~~the State of~~
 1245 ~~Florida~~, and business tax receipt ~~occupational license~~ where
 1246 applicable; the date on which a seller of travel registered its
 1247 fictitious name if the seller of travel is operating under a
 1248 fictitious or trade name; the name of all other corporations,
 1249 business entities, and trade names through which each owner of
 1250 the seller of travel operated, was known, or did business as a
 1251 seller of travel within the preceding 5 years; a list of all
 1252 authorized independent agents, including the agent's trade name,
 1253 full name, mailing address, business address, and telephone
 1254 numbers; the business location and address of each branch office
 1255 and full name and address of the manager or supervisor; the
 1256 certification required under s. 559.9285; and proof of purchase
 1257 of adequate bond as required in this part. A certificate
 1258 evidencing proof of registration shall be issued by the
 1259 department and must be prominently displayed in the seller of

1260 travel's primary place of business.

1261 (3) Each independent agent shall annually file an

1262 affidavit with the department prior to engaging in business in

1263 this state. This affidavit must include the independent agent's

1264 full name, legal business or trade name, mailing address,

1265 business address, telephone number, ~~social security number,~~ and

1266 the name ~~or names~~ and address ~~addresses~~ of each seller of travel

1267 represented by the independent agent. A letter evidencing proof

1268 of filing must be issued by the department and must be

1269 prominently displayed in the independent agent's primary place

1270 of business. Each independent agent must also submit an annual

1271 registration fee of \$50. All moneys collected pursuant to the

1272 imposition of the fee shall be deposited by the Chief Financial

1273 Officer into the General Inspection Trust Fund of the Department

1274 of Agriculture and Consumer Services for the sole purpose of

1275 administrating this part. As used in this subsection, the term

1276 "independent agent" means a person who represents a seller of

1277 travel by soliciting persons on its behalf; who has a written

1278 contract with a seller of travel which is operating in

1279 compliance with this part and any rules adopted thereunder; who

1280 does not receive a fee, commission, or other valuable

1281 consideration directly from the purchaser for the seller of

1282 travel; who does not at any time have any unissued ticket stock

1283 or travel documents in his or her possession; and who does not

1284 have the ability to issue tickets, vacation certificates, or any

1285 other travel document. The term "independent agent" does not

1286 include an affiliate of the seller of travel, as that term is

1287 used in s. 559.935(3), or the employees of the seller of travel

1288 or of such affiliates.

1289 (4) Any person applying for or renewing a local business
 1290 tax receipt ~~occupational license~~ to engage in business as a
 1291 seller of travel must exhibit a current registration certificate
 1292 from the department before the local business tax receipt
 1293 ~~occupational license~~ may be issued or reissued.

1294 Section 39. Paragraph (c) of subsection (3) of section
 1295 559.9285, Florida Statutes, is amended to read:

1296 559.9285 Certification of business activities.—

1297 (3) The department shall specify by rule the form of each
 1298 certification under this section which shall include the
 1299 following information:

1300 (c) The legal name, any trade names or fictitious names,
 1301 mailing address, physical address, telephone number or numbers,
 1302 facsimile number or numbers, and all Internet and electronic
 1303 contact information of every other commercial entity with which
 1304 the certifying party engages in business or commerce that is
 1305 related in any way to the certifying party's business or
 1306 commerce with any terrorist state. The information disclosed
 1307 pursuant to this paragraph does not constitute customer lists,
 1308 customer names, or trade secrets protected under s. 570.544(8)
 1309 ~~570.544(7)~~.

1310 Section 40. Subsection (6) of section 559.935, Florida
 1311 Statutes, is amended to read:

1312 559.935 Exemptions.—

1313 (6) The department shall request from the Airlines
 1314 Reporting Corporation any information necessary to implement the
 1315 provisions of subsection (2). Persons claiming an exemption

1316 under subsection (2) or subsection (3) must show a letter of
 1317 exemption from the department before a local business tax
 1318 receipt ~~occupational license~~ to engage in business as a seller
 1319 of travel may be issued or reissued. If the department fails to
 1320 issue a letter of exemption on a timely basis, the seller of
 1321 travel shall submit to the department, through certified mail,
 1322 an affidavit containing her or his name and address and an
 1323 explanation of the exemption sought. Such affidavit may be used
 1324 in lieu of a letter of exemption for the purpose of obtaining an
 1325 business tax receipt ~~occupational license~~. In any civil or
 1326 criminal proceeding, the burden of proving an exemption under
 1327 this section is ~~shall be~~ on the person claiming such exemption.
 1328 A letter of exemption issued by the department may ~~shall~~ not be
 1329 used in, and has ~~shall have~~ no bearing on, such proceedings.

1330 Section 41. Subsection (12) of section 570.29, Florida
 1331 Statutes, is amended to read:

1332 570.29 Departmental divisions.—The department shall
 1333 include the following divisions:

1334 ~~(12) Standards.~~

1335 Section 42. Section 570.46, Florida Statutes, is repealed.

1336 Section 43. Section 570.47, Florida Statutes, is repealed.

1337 Section 44. Section 570.544, Florida Statutes, is amended
 1338 to read:

1339 570.544 Division of Consumer Services; director; powers;
 1340 processing of complaints; records.—

1341 (1) The director of the Division of Consumer Services
 1342 shall be appointed by and serve at the pleasure of the
 1343 commissioner.

1344 (2) The director shall supervise, direct, and coordinate
 1345 the activities of the division and shall, under the direction of
 1346 the department, enforce the provisions of chapters 472, 496,
 1347 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849.

1348 ~~(3)(2)~~ The Division of Consumer Services may:

1349 (a) Conduct studies and make analyses of matters affecting
 1350 the interests of consumers.

1351 (b) Study the operation of laws for consumer protection.

1352 (c) Advise and make recommendations to the various state
 1353 agencies concerned with matters affecting consumers.

1354 (d) Assist, advise, and cooperate with local, state, or
 1355 federal agencies and officials in order to promote the interests
 1356 of consumers.

1357 (e) Make use of the testing and laboratory facilities of
 1358 the department for the detection of consumer fraud.

1359 (f) Report to the appropriate law enforcement officers any
 1360 information concerning violation of consumer protection laws.

1361 (g) Assist, develop, and conduct programs of consumer
 1362 education and consumer information through publications and
 1363 other informational and educational material prepared for
 1364 dissemination to the public, in order to increase the competence
 1365 of consumers.

1366 (h) Organize and hold conferences on problems affecting
 1367 consumers.

1368 (i) Recommend programs to encourage business and industry
 1369 to maintain high standards of honesty, fair business practices,
 1370 and public responsibility in the production, promotion, and sale
 1371 of consumer goods and services.

1372 (4)~~(3)~~ In addition to the powers, duties, and
 1373 responsibilities authorized by this or any other chapter, the
 1374 Division of Consumer Services shall serve as a clearinghouse for
 1375 matters relating to consumer protection, consumer information,
 1376 and consumer services generally. It shall receive complaints and
 1377 grievances from consumers and promptly transmit them to the ~~that~~
 1378 agency most directly concerned in order that the complaint or
 1379 grievance may be expeditiously handled in the best interests of
 1380 the complaining consumer. If no agency exists, the Division of
 1381 Consumer Services shall seek a settlement of the complaint using
 1382 formal or informal methods of mediation and conciliation and may
 1383 seek any other resolution of the matter in accordance with its
 1384 jurisdiction.

1385 (5)~~(4)~~ If any complaint received by the Division of
 1386 Consumer Services concerns matters that ~~which~~ involve concurrent
 1387 jurisdiction in more than one agency, duplicate copies of the
 1388 complaint shall be referred to those offices deemed to have
 1389 concurrent jurisdiction.

1390 (6)~~(5)~~(a) Any agency, office, bureau, division, or board
 1391 of state government receiving a complaint that ~~which~~ deals with
 1392 consumer fraud or consumer protection and that ~~which~~ is not
 1393 within the jurisdiction of the receiving agency, office, bureau,
 1394 division, or board originally receiving it, shall immediately
 1395 refer the complaint to the Division of Consumer Services.

1396 (b) Upon receipt of such a complaint, the Division of
 1397 Consumer Services shall make a determination of the proper
 1398 jurisdiction to which the complaint relates and shall
 1399 immediately refer the complaint to the agency, office, bureau,

1400 division, or board that ~~which~~ does have the proper regulatory or
 1401 enforcement authority to deal with it.

1402 (7)~~(6)~~ The office or agency to which a complaint has been
 1403 referred shall within 30 days acknowledge receipt of the
 1404 complaint. If an office or agency receiving a complaint
 1405 determines that the matter presents a prima facie case for
 1406 criminal prosecution or if the complaint cannot be settled at
 1407 the administrative level, the complaint together with all
 1408 supporting evidence shall be transmitted to the Department of
 1409 Legal Affairs or other appropriate enforcement agency with a
 1410 recommendation for civil or criminal action warranted by the
 1411 evidence.

1412 (8)~~(7)~~ The records of the Division of Consumer Services
 1413 are public records. However, customer lists, customer names, and
 1414 trade secrets are confidential and exempt from the provisions of
 1415 s. 119.07(1). Disclosure necessary to enforcement procedures
 1416 does shall not violate ~~be construed as violative of this~~
 1417 prohibition.

1418 (9)~~(8)~~ ~~It shall be the duty of~~ The Division of Consumer
 1419 Services shall ~~Services to~~ maintain records and compile
 1420 summaries and analyses of consumer complaints and their eventual
 1421 disposition, which data may serve as a basis for recommendations
 1422 to the Legislature and to state regulatory agencies.

1423 Section 45. Paragraph (a) of subsection (8) of section
 1424 616.242, Florida Statutes, is amended to read:

1425 616.242 Safety standards for amusement rides.—

1426 (8) FEES.—

1427 (a) The department shall by rule establish fees to cover

PCS for HB 749

ORIGINAL

2012

1428 | the costs and expenditures associated with the fair rides
1429 | inspection program ~~Bureau of Fair Rides Inspection~~, including
1430 | all direct and indirect costs. If there is not sufficient
1431 | general revenue appropriated by the Legislature, the industry
1432 | shall pay for the remaining cost of the program. The fees must
1433 | be deposited in the General Inspection Trust Fund.

1434 | Section 46. This act shall take effect July 1, 2012.