

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1378

SPONSOR: Senator Bronson

SUBJECT: Consumer Protection

DATE: March 16, 2000

REVISED: \_\_\_\_\_

|    | ANALYST         | STAFF DIRECTOR | REFERENCE | ACTION                 |
|----|-----------------|----------------|-----------|------------------------|
| 1. | <u>Akhavein</u> | <u>Poole</u>   | <u>AG</u> | <u>Fav/1 amendment</u> |
| 2. | _____           | _____          | _____     | _____                  |
| 3. | _____           | _____          | _____     | _____                  |
| 4. | _____           | _____          | _____     | _____                  |
| 5. | _____           | _____          | _____     | _____                  |

## I. Summary:

This bill amends various consumer protection laws implemented by the Department of Agriculture and Consumer Services (department). The major provisions include:

**Health Studios** - A health studio would be required to refund a consumer's money within 30 days if the consumer lawfully cancels a contract when a studio goes out of business, changes location, or if the consumer cancels for health related reasons.

**Sale of Business Opportunities Act** - Potential purchasers would be provided with additional information on disclosure statements to aid them in deciding whether to purchase a business opportunity. The bill revises security claim procedures to provide consistency with other regulatory programs. It would allow claim procedures to be governed by chapter 120, F.S., the Administrative Procedures Act, through the department.

**Motor Vehicle Repair Act** - The bill eliminates the distinction between shops that conduct "minor" repairs and all other repair shops, requiring all repair shops to register with the department, comply with the provisions of the Motor Vehicle Repair Act, and pay appropriate fees. It requires applicants to submit a copy of their estimate forms with registration applications and requires shops to include in their estimates any shop supply charges, shop charges, miscellaneous charges, or waste disposal charges.

This bill amends sections 501.017, 559.803, 559.807, 559.904, 559.905, 559.9221, 325.202, and 325.212, Florida Statutes.

This bill repeals section 559.903(5), Florida Statutes.

## II. Present Situation:

The primary mission of the Division of Consumer Services (division) is to serve as a clearing house for matters relating to consumer protection, consumer information, and consumer services in general. Although the division's specific regulatory programs vary, they have many of the same requirements. Regulated businesses must register with the Department of Agriculture and Consumer Services (department), pay registration fees, and disclose certain information to their customers. The department has identified several statutory provisions that need to be clarified, updated, or more specifically stated in order to enhance its ongoing consumer protection capability.

**Health Studios** - Health studios have been regulated since 1977 to protect the public from financial hardship due to unlawful business practices and financing methods. Health studios are defined in s. 501.0125, F.S., to mean "any person who is engaged in the sale of services for instruction, training or assistance in a program of physical exercise or in the sale of services for the right or privilege to use equipment or facilities in furtherance of a program of physical exercise."

Currently, when a consumer joins a health studio, the membership contract may be canceled under certain circumstances. If the consumer cancels the contract within three days of its execution, the health studio is required to refund the consumer's money within 30 days. A contract may also be canceled if the studio goes out of business, moves to another location, or if the consumer cancels for health related reasons. The statutes do not currently provide any time period for refunds of a consumer's money under these three cancellation provisions.

**Business Opportunities** - The Florida Sale of Business Opportunities Act is intended to help protect prospective investors by requiring the seller to provide information about the business opportunity. The law requires sellers of business opportunities to provide a disclosure document that includes the information necessary for the prospective investor to make an informed investment decision. This disclosure document must be presented prior to the time an investor signs a business opportunity contract or makes any payment.

Sellers of business opportunities must annually file with the department a copy of the disclosure statement required pursuant to s. 559.803, F.S., prior to placing advertising or making an offer to sell or solicit to buy a business opportunity in this state. A business opportunity is defined as the sale or lease of goods or services to an individual to enable that person to start a business where a fee in excess of \$500 is charged and in which the seller will:

- provide assistance in securing a location;
- purchase goods which are created from the goods or services provided;
- guarantee in writing that the seller will refund monies paid if the individual does not recognize income in excess of the charges for the businesses opportunity; and
- provide an operational program to enable the individual to derive income.

Written disclosure documents must include: information about the seller and management personnel; company background and operations; details of the actual services to be provided; financial data; and training regimens which may be required. If a seller identifies sales or earnings

which may be reached through the business opportunity, the disclosure must include information regarding the total number of persons who have achieved anticipated sales or earnings levels and the number of recent purchasers of the business opportunity.

If a seller guarantees in writing that the seller will refund monies paid if the individual does not recognize income in excess of the charges for the business opportunity, then sellers of business opportunities must file a bond, trust account, or guaranteed letter of credit in an amount of not less than \$50,000 with the department.

**Motor Vehicle Repair** - The Florida Motor Vehicle Repair Act requires businesses engaged in the maintenance, modification and repair of motor vehicles and diagnostic work incident thereto, to register annually with the department. The business must pay an incremental registration fee based upon the number of its employees. The act requires written repair estimates, disclosure statements, record keeping, and bonding for claims. Unlawful acts and practices are specified and remedies are provided.

The definition of “motor vehicle” includes automobiles, trucks, buses, recreational vehicles and other motor powered vehicles. The definition specifically excludes certain classes of vehicles such as mobile homes, watercraft and aircraft.

The term “minor repair services” is defined in the act to include motor vehicle repairing and services which may be performed by persons without the skills and knowledge required of a motor vehicle mechanic. The Department of Agriculture and Consumer Services has discovered through their inspections and educational efforts that many “minor” repair shops are performing repairs other than strictly minor repairs and should not be registered as “minor”. Shops which only conduct minor repairs pay an annual \$25 registration fee, and for all other shops, the fees range from \$50 to \$300 depending upon the number of employees in the shop.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 501.017, F.S., to require a health studio to refund a consumer’s money within 30 days when the consumer cancels a contract pursuant to statutory authority.

**Section 2.** Amends s. 559.803, F.S., to require additional information on disclosure statements for business opportunities. Requires the disclosure statement to provide the total number of persons who have purchased the business opportunity within the past three years and the names, addresses, and telephone numbers of the ten previous persons who have purchased the business opportunity from the seller and who are the most geographically close to the potential purchaser.

**Section 3.** Amends s. 559.807, F.S., to allow security claim procedures to be processed through the Department of Agriculture and Consumer Services and to allow a certificate of deposit to be used as a security option.

**Section 4.** Amends s. 559.904, F.S., to delete a provision relating to the registration fee for motor vehicle repair shops. Requires each application for registration to be accompanied by copies of the applicant’s estimate and invoice forms. Requires forms to comply with applicable provisions of the Florida Motor Vehicle Repair Act.

**Section 5.** Amends s. 559.905, F.S., to require additional information on written motor vehicle repair estimates. Requires the repair shop to disclose any charges for miscellaneous shop supplies or for hazardous or other waste removal. Requires certain statements to be included on the estimate that identify costs and profits to the facility and charges mandated by state or federal laws.

**Section 6.** Amends s. 559.9221, F.S., to revise Motor Vehicle Repair Advisory Council membership requirements. Deletes a registration date. Deletes references to “minor repair” in relation to the composition of the Motor Vehicle Repair Advisory Council. Deletes obsolete language relating to the initial appointment of members to the council.

**Section 7.** Amends s. 325.202, F.S., to correct a reference.

**Section 8.** Amends s. 325.212, F.S., to correct a reference.

**Section 9.** Repeals s. 559.903(5), F.S., to delete the definition for “minor repair service.”

**Section 10.** Provides that this act shall take effect October 1, 2000.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Department of Agriculture and Consumer Services has discovered through their inspections and educational efforts that many “minor” repair shops are performing repairs other than strictly minor repairs. The bill deletes the definition of “minor repair service” to remove the distinction between shops performing only minor repairs and other repair shops, so that all repair shops must register with the department and comply with the provisions of the Motor Vehicle Repair Act, including paying appropriate fees. The registration fee for

minor repair shops is currently \$25; for all other shops, the fees range from \$50 to \$300 depending upon the number of employees in the shop. As of February 8, 2000, there were 1,075 shops registered as minor repair shops. At this point, the average number of employees working in minor repair shops is unknown, therefore, there is no way of estimating the additional registration fees that a repair shop will have to pay.

This bill will provide Florida consumers greater protection with respect to health studios, business opportunities, and motor vehicle repair shops.

**C. Government Sector Impact:**

|  | <b>Trust Fund</b> | <b>FY 2001-02</b> | <b>FY 2002-03</b> | <b>FY 2003-04</b> |
|--|-------------------|-------------------|-------------------|-------------------|
| TOTAL EXPENDITURES:  |                   | 0                 | 0                 | 0                 |
| TOTAL REVENUES:<br>(Additional \$25 x 1,075<br>minor repair shops) | GITF              | \$26,875          | \$26,875          | \$26,875          |

The Department of Agriculture and Consumer Services does not anticipate any change in revenues or expenditures as a result of the revisions the bill makes to health studio laws and to the Sale of Business Opportunities Act.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Agriculture and Consumer Services:  
 Technical amendment to replace “ trust account” with “other security.”