

By Senator Stargel

15-00464A-13

20131040\_\_

1                   A bill to be entitled  
2           An act relating to the Department of Agriculture and  
3           Consumer Services; transferring, redesignating, and  
4           amending s. 525.09(1), F.S.; transferring the  
5           collection of the motor fuel inspection fee from the  
6           Department of Agriculture and Consumer Services to the  
7           Department of Revenue; amending s. 206.45, F.S.;  
8           providing for the collection and distribution of the  
9           inspection fee on motor fuel; amending s. 493.6101,  
10          F.S.; revising the definition of the term  
11          "repossession"; amending s. 493.6113, F.S.; requiring  
12          licensees to submit proof of recertification training  
13          to the Department of Agriculture and Consumer  
14          Services; providing that failure to submit proof of  
15          firearm recertification training will result in  
16          license suspension and nonrenewal; amending s.  
17          493.6116, F.S.; removing a provision that prohibits  
18          firearm licensees from sponsoring certain interns;  
19          requiring interns to conduct regulated duties within  
20          the state; amending s. 493.6118, F.S.; providing  
21          additional grounds for disciplinary action against  
22          firearm licensees; providing criminal penalties for  
23          providing fraudulent training certifications;  
24          conforming a cross-reference; amending s. 493.6120,  
25          F.S.; providing an exception to a penalty provision;  
26          amending s. 493.6121, F.S.; conforming a cross-  
27          reference; amending s. 496.405, F.S.; revising  
28          procedures and requirements with respect to the  
29          submission and processing of registration statements

15-00464A-13

20131040\_\_

30 and renewal statements by charitable organizations and  
31 sponsors; amending s. 496.406, F.S.; providing  
32 exemption from registration requirements for certain  
33 charitable organizations and sponsors; requiring  
34 exempt charitable organizations and sponsors that  
35 solicit donations to provide information to the  
36 department; providing that the burden of proving an  
37 exemption is on the entity claiming the exemption;  
38 limiting applicability of the registration exemption;  
39 amending s. 496.407, F.S.; providing that a charitable  
40 organization or sponsor may submit certain IRS forms  
41 and schedules in lieu of a financial report; amending  
42 s. 496.409, F.S.; revising procedures and requirements  
43 with respect to the submission and processing of  
44 registration statements and renewal statements by  
45 professional fundraising consultants; amending s.  
46 496.410, F.S.; revising procedures and requirements  
47 with respect to the submission and processing of  
48 registration statements, renewal statements, and  
49 reports by professional solicitors; amending s.  
50 496.411, F.S.; deleting provisions that require  
51 registered charitable entities, sponsors, or  
52 solicitors to display the percentage retained from  
53 contributions; amending s. 496.415, F.S.; providing  
54 that it is unlawful to knowingly provide a misleading  
55 or inaccurate document relating to a solicitation or  
56 charitable promotion; providing criminal penalties;  
57 amending s. 496.419, F.S.; providing that certain  
58 violations constitute an immediate public threat and

15-00464A-13

20131040\_\_

59 are grounds for suspending solicitation activities;  
60 requiring that the department report only  
61 substantiated criminal violations to a prosecuting  
62 authority; conforming cross-references; amending s.  
63 501.016, F.S.; reducing the required security amount  
64 for health studios; amending s. 501.059, F.S.;  
65 prohibiting a person from making certain outbound  
66 telephonic sales calls; amending s. 501.603, F.S.;  
67 revising the definitions of the terms "commercial  
68 telephone solicitation" and "commercial telephone  
69 seller"; amending s. 501.604, F.S.; specifying that  
70 exemptions apply to telecommunications businesses and  
71 businesses that have operated lawfully; making  
72 technical and conforming changes; amending s. 501.607,  
73 F.S.; deleting the provision requiring commercial  
74 telephone salespersons to provide employment history  
75 to the department; amending s. 501.608, F.S.;  
76 requiring that commercial telephone sellers provide  
77 the department with certain documents to aid in  
78 determining eligibility for exemptions; requiring each  
79 commercial telephone seller operating under an  
80 exemption to display or make certain documents  
81 available for inspection; providing that failure to  
82 obtain or display certain documents is grounds for  
83 action against the commercial telephone seller;  
84 amending s. 501.611, F.S.; requiring a commercial  
85 telephone seller to maintain an active security bond  
86 throughout the period of licensure; amending s.  
87 501.615, F.S.; revising the criteria for certain

15-00464A-13

20131040\_\_

88 exempt telephonic sales; requiring a commercial  
89 telephone seller engaged in activities regulated by  
90 ch. 721 to comply with certain disclosure obligations;  
91 amending s. 501.617, F.S.; authorizing the department  
92 to conduct regulatory inspections of commercial  
93 telephone sellers; amending s. 507.03, F.S.; requiring  
94 moving brokers to provide the department with contact  
95 information for movers with whom they have contracted  
96 for services or are affiliated; amending s. 507.04,  
97 F.S.; eliminating the requirement that a moving broker  
98 obtain a bond; amending s. 507.07, F.S.; prohibiting  
99 movers and moving brokers from entering into certain  
100 service contracts with certain unregistered persons;  
101 amending s. 525.01, F.S.; revising the definition of  
102 the term "alternative fuels" for purposes of  
103 inspection requirements; repealing s. 525.09(2)-(4),  
104 F.S., relating to the payment and applicability of an  
105 inspection fee for testing and analyzing petroleum  
106 fuels; amending s. 525.10, F.S.; eliminating the  
107 requirement that collected fees be paid into the  
108 treasury and distributed into a specified trust fund;  
109 conforming provisions; amending s. 527.01, F.S.;  
110 providing a definition for the term "license year" as  
111 it relates to the sale of petroleum gas; amending s.  
112 527.0201, F.S.; revising examination requirements for  
113 applicants seeking certain licenses; revising  
114 continuing education requirements for specified  
115 qualifiers; amending s. 527.03, F.S.; revising the  
116 renewal procedure for certain licenses; amending s.

15-00464A-13

20131040\_\_

117 531.415, F.S.; conforming a cross-reference; amending  
118 s. 531.61, F.S.; exempting certain commercial weights  
119 and measures devices from permit requirements;  
120 conforming a cross-reference; amending chapter 2009-  
121 66, Laws of Florida; extending the expiration date of  
122 certain statutes related to commercial weights and  
123 measures; amending s. 539.001, F.S.; revising  
124 fingerprinting requirements for a pawnbroker license  
125 application; amending s. 559.802, F.S.; requiring  
126 franchisors to provide notice of the franchise sale on  
127 a department promulgated form; amending s. 559.803,  
128 F.S.; deleting provisions allowing and requiring  
129 sellers of business opportunities to file federal  
130 disclosure statements with the department; repealing  
131 s. 559.805, F.S., relating to mandatory filings and  
132 disclosure of advertisement identification numbers by  
133 sellers of business opportunities; repealing s.  
134 559.807(2), F.S., relating to bonds or securities for  
135 business opportunity sellers; amending s. 559.813,  
136 F.S.; deleting a provision authorizing the department  
137 to impose specified penalties for certain violations  
138 relating to selling business opportunities; abrogating  
139 the enforcement and rulemaking authority of the  
140 Department of Agriculture and Consumer Services;  
141 amending s. 559.815, F.S.; conforming a cross-  
142 reference; amending s. 559.9221, F.S.; revising the  
143 membership of the Motor Vehicle Repair Advisory  
144 Council; amending s. 616.242, F.S.; revising amusement  
145 ride insurance coverage requirements; amending s.

15-00464A-13

20131040\_\_

146 721.20, F.S.; requiring specified persons who sell  
147 timeshare plans to be licensed as commercial telephone  
148 sellers or salespersons under ch. 501, F.S.; providing  
149 an effective date.

150  
151 Be It Enacted by the Legislature of the State of Florida:

152  
153 Section 1. Subsection (1) of section 525.09, Florida  
154 Statutes, is transferred, redesignated as paragraph (h) of  
155 subsection (1) of section 206.41, Florida Statutes, and amended,  
156 to read:

157 206.41 State taxes imposed on motor fuel.—

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

160 (h) ~~(1)~~ An additional 0.125 cent per net gallon is levied on  
161 all motor fuel for sale or use in this state for the purpose of  
162 defraying the expenses incident to inspecting, testing, and  
163 analyzing motor fuel ~~petroleum fuels~~ in this state, ~~there shall~~  
164 ~~be paid to the department a charge of one-eighth cent per gallon~~  
165 ~~on all gasoline, kerosene (except when used as aviation turbine~~  
166 ~~fuel), and #1 fuel oil for sale or use in this state. This~~  
167 ~~inspection fee shall be imposed in the same manner as the motor~~  
168 ~~fuel tax pursuant to s. 206.41. Payment shall be made on or~~  
169 ~~before the 25th day of each month.~~

170 Section 2. Subsection (4) is added to section 206.45,  
171 Florida Statutes, to read:

172 206.45 Payment of tax into State Treasury.—

173 (4) The department shall pay all moneys collected pursuant  
174 to s. 206.41(1)(h) into the State Treasury for monthly

15-00464A-13

20131040\_\_

175 distribution into the General Inspection Trust Fund.

176 Section 3. Subsection (22) of section 493.6101, Florida  
177 Statutes, is amended to read:

178 493.6101 Definitions.—

179 (22) "Repossession" means the recovery of a motor vehicle  
180 as defined under s. 320.01(1), a mobile home as defined in s.  
181 320.01(2), a motorboat as defined under s. 327.02, an aircraft  
182 as defined in s. 330.27(1), a personal watercraft as defined in  
183 s. 327.02, an all-terrain vehicle as defined in s. 316.2074,  
184 farm equipment as defined under s. 686.402, or industrial  
185 equipment, by an individual who is authorized by the legal  
186 owner, lienholder, or lessor to recover, or to collect money  
187 payment in lieu of recovery of, such property that was ~~which has~~  
188 ~~been~~ sold or leased under a security agreement that contains a  
189 repossession clause. As used in this subsection, the term  
190 "industrial equipment" includes, but is not limited to,  
191 tractors, road rollers, cranes, forklifts, backhoes, and  
192 bulldozers. The term "industrial equipment" also includes other  
193 vehicles that are propelled by power other than muscular power  
194 and that are used in the manufacture of goods or used in the  
195 provision of services. A repossession is complete when a  
196 licensed recovery agent is in control, custody, and possession  
197 of such repossessed property. Property that is being repossessed  
198 is considered to be in the control, custody, and possession of a  
199 licensed recovery agent if the vehicle or other equipment being  
200 repossessed has been secured in preparation for transport from  
201 the site of the recovery by means of having been attached to, or  
202 placed on, the towing or other transport vehicle, or if the  
203 vehicle or equipment being repossessed is being operated or

15-00464A-13

20131040\_\_

204 about to be operated by a licensed recovery agent.

205 Section 4. Paragraph (b) of subsection (3) of section  
206 493.6113, Florida Statutes, is amended to read:

207 493.6113 Renewal application for licensure.—

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

212 (b) Each Class "G" licensee shall additionally submit proof  
213 that he or she has received during each year of the license  
214 period a minimum of 4 hours of firearms recertification training  
215 taught by a Class "K" licensee and has complied with such other  
216 health and training requirements which the department may adopt  
217 by rule. Proof of completion of recertification training must be  
218 submitted to the department upon completion of that training. If  
219 the documentation of completion of recertification training is  
220 not submitted by the end of the first year of the license  
221 period, the individual's license shall be automatically  
222 suspended until proof of such training is submitted to the  
223 department. If the documentation of completion of  
224 recertification training is not submitted by the end of the  
225 second year of the license period, the license may not be  
226 renewed unless ~~If proof of a minimum of 4 hours of annual~~  
227 ~~firearms recertification training cannot be provided,~~ the  
228 renewal applicant completes ~~shall complete~~ the minimum number of  
229 hours of range and classroom training required at the time of  
230 initial licensure. The department may waive the foregoing  
231 firearms training requirement if:

232 1. The applicant provides proof that he or she is currently



15-00464A-13

20131040\_\_

233 certified as a law enforcement officer or correctional officer  
234 under the Criminal Justice Standards and Training Commission and  
235 has completed law enforcement firearms requalification training  
236 annually during the previous 2 years of the licensure period.

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

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

246 Section 5. Subsections (2) through (4) of section 493.6116,  
247 Florida Statutes, are amended to read:

248 493.6116 Sponsorship of interns.—

249 (2) An internship may not commence until a licensee submits  
250 ~~the sponsor has submitted~~ to the department a ~~the~~ notice of  
251 intent to sponsor. Such notice shall be on a form provided by  
252 the department.

253 (3) An internship is intended to serve as a period of  
254 learning ~~process~~. Licensees who sponsor interns ~~Sponsors~~ shall  
255 provide ~~assume a training status by providing~~ direction to and  
256 maintain control of interns as part of this learning process.  
257 Sponsors may ~~shall only sponsor interns whose place of business~~  
258 ~~is within a 50-mile distance of the sponsor's place of business~~  
259 ~~and shall~~ not allow interns to operate independently of ~~such~~  
260 direction and control, or require interns to perform activities  
261 that ~~which~~ do not enhance the intern's qualification for

15-00464A-13

20131040\_\_

262 licensure. Interns shall perform regulated duties within the  
263 geographic boundaries of this state during the period of  
264 internship.

265 (4) A licensee ~~No sponsor~~ may not sponsor more than six  
266 interns at the same time.

267 Section 6. Present subsections (1) and (4) of section  
268 493.6118, Florida Statutes, are amended, present subsections (2)  
269 through (7) of that section are redesignated as subsections (3)  
270 through (8), respectively, and a new subsection (2) is added to  
271 that section, to read:

272 493.6118 Grounds for disciplinary action.—

273 (1) The following constitute grounds for which disciplinary  
274 action specified in subsection (3) ~~(2)~~ may be taken by the  
275 department against a ~~any~~ licensee, agency, or applicant  
276 regulated by this chapter, or an ~~any~~ unlicensed person engaged  
277 in activities regulated under this chapter.

278 (a) Fraud or willful misrepresentation in applying for or  
279 obtaining a license.

280 (b) Use of a ~~any~~ fictitious or assumed name by an agency  
281 unless the agency has department approval and qualifies under s.  
282 865.09.

283 (c) Being found guilty of or entering a plea of guilty or  
284 nolo contendere to, regardless of adjudication, or being  
285 convicted of a crime that directly relates to the business for  
286 which the license is held or sought. A plea of nolo contendere  
287 creates ~~shall create~~ a rebuttable presumption of guilt to the  
288 underlying criminal charges, and the department shall allow the  
289 individual being disciplined or denied an application for a  
290 license to present any mitigating circumstances surrounding his

15-00464A-13

20131040\_\_

291 or her plea.

292 (d) A false statement by the licensee that an ~~any~~  
293 individual is or has been in his or her employ.

294 (e) A finding that the licensee or an ~~any~~ employee of the  
295 licensee is guilty of willful betrayal of a professional secret  
296 or the ~~any~~ unauthorized release of information acquired as a  
297 result of activities regulated under this chapter.

298 (f) Proof that the applicant or licensee is guilty of fraud  
299 or deceit, or of negligence, incompetency, or misconduct, in the  
300 practice of the activities regulated under this chapter.

301 (g) Conducting activities regulated under this chapter  
302 without a license or with a revoked or suspended license.

303 (h) Failure of the licensee to maintain in full force and  
304 effect the commercial general liability insurance coverage  
305 required by s. 493.6110.

306 (i) Impersonating, or permitting or aiding and abetting an  
307 employee to impersonate, a law enforcement officer or an  
308 employee of the state, the United States, or a ~~any~~ political  
309 subdivision thereof by identifying himself or herself as a  
310 federal, state, county, or municipal law enforcement officer or  
311 official representative, by wearing a uniform or presenting or  
312 displaying a badge or credentials that would cause a reasonable  
313 person to believe that he or she is a law enforcement officer or  
314 that he or she has official authority, by displaying ~~any~~  
315 flashing or warning vehicular lights other than amber colored,  
316 or by committing an ~~any~~ act that is intended to falsely convey  
317 official status.

318 (j) Commission of an act of violence or the use of force on  
319 a ~~any~~ person except in the lawful protection of one's self or

15-00464A-13

20131040\_\_

320 another from physical harm.

321 (k) Knowingly violating, advising, encouraging, or  
322 assisting the violation of a ~~any~~ statute, court order, *capias*,  
323 warrant, injunction, or cease and desist order, in the course of  
324 business regulated under this chapter.

325 (l) Soliciting business for an attorney in return for  
326 compensation.

327 (m) Transferring or attempting to transfer a license issued  
328 pursuant to this chapter.

329 (n) Employing or contracting with an ~~any~~ unlicensed or  
330 improperly licensed person or agency to conduct activities  
331 regulated under this chapter, or performing an ~~any~~ act that  
332 assists, aids, or abets a person or business entity in engaging  
333 in unlicensed activity, when the licensure status was known or  
334 could have been ascertained by reasonable inquiry.

335 (o) Failure or refusal to cooperate with or refusal of  
336 access to an authorized representative of the department engaged  
337 in an official investigation pursuant to this chapter.

338 (p) Failure of a ~~any~~ partner, principal corporate officer,  
339 or licensee to have his or her identification card in his or her  
340 possession while on duty.

341 (q) Failure of a ~~any~~ licensee to have his or her license in  
342 his or her possession while on duty, as specified in s.  
343 493.6111(1).

344 (r) Failure or refusal by a sponsor to certify a biannual  
345 written report on an intern or to certify completion or  
346 termination of an internship to the department within 15 working  
347 days.

348 (s) Failure to report to the department a ~~any~~ person whom

15-00464A-13

20131040\_\_

349 the licensee knows to be in violation of this chapter or the  
350 rules of the department.

351 (t) Violating any provision of this chapter.

352 (u) For a Class "G" applicant or licensee, failing to  
353 complete recertification training required to carry a firearm  
354 while performing regulated duties.

355 (v) For a Class "K" applicant or licensee, failing to  
356 maintain active certification as a professional firearms  
357 trainer.

358 (w)~~(u)~~ For a Class "G" or a Class "K" applicant or  
359 licensee, being prohibited from purchasing or possessing a  
360 firearm by state or federal law.

361 (x)~~(v)~~ In addition to the grounds for disciplinary action  
362 prescribed in paragraphs (a)-(t), Class "R" recovery agencies,  
363 Class "E" recovery agents, and Class "EE" recovery agent interns  
364 are prohibited from committing the following acts:

365 1. Recovering a motor vehicle, mobile home, motorboat,  
366 aircraft, personal watercraft, all-terrain vehicle, farm  
367 equipment, or industrial equipment that has been sold under a  
368 conditional sales agreement or under the terms of a chattel  
369 mortgage before authorization has been received from the legal  
370 owner or mortgagee.

371 2. Charging for expenses not actually incurred in  
372 connection with the recovery, transportation, storage, or  
373 disposal of repossessed property or personal property obtained  
374 in a repossession.

375 3. Using ~~any~~ repossessed property or personal property  
376 obtained in a repossession for the personal benefit of a  
377 licensee or an officer, director, partner, manager, or employee

15-00464A-13

20131040\_\_

378 of a licensee.

379 4. Selling property recovered under the provisions of this  
380 chapter, except with written authorization from the legal owner  
381 or the mortgagee thereof.

382 5. Failing to notify the police or sheriff's department of  
383 the jurisdiction in which the repossessed property is recovered  
384 within 2 hours after recovery.

385 6. Failing to remit moneys collected in lieu of recovery of  
386 a motor vehicle, mobile home, motorboat, aircraft, personal  
387 watercraft, all-terrain vehicle, farm equipment, or industrial  
388 equipment to the client within 10 working days.

389 7. Failing to deliver to the client a negotiable instrument  
390 that is payable to the client, within 10 working days after  
391 receipt of such instrument.

392 8. Falsifying, altering, or failing to maintain ~~any~~  
393 required inventory or records regarding disposal of personal  
394 property contained in or on repossessed property pursuant to s.  
395 493.6404(1).

396 9. Carrying a ~~any~~ weapon or firearm when he or she is on  
397 private property and performing duties under his or her license  
398 whether or not he or she is licensed pursuant to s. 790.06.

399 10. Soliciting from the legal owner the recovery of  
400 property subject to repossession after such property has been  
401 seen or located on public or private property if the amount  
402 charged or requested for such recovery is more than the amount  
403 normally charged for such a recovery.

404 11. Wearing, presenting, or displaying a badge in the  
405 course of performing a repossession regulated by this chapter.

406 (2) It is unlawful for a person to knowingly possess,

15-00464A-13

20131040

407 issue, cause to be issued, sell, submit, or offer a fraudulent  
408 training certificate, proficiency form, or other official  
409 document that declares an applicant has successfully completed a  
410 course of training required for licensure under chapter 493 if  
411 that person knows or reasonably should know that the  
412 certificate, form, or document is fraudulent. A violation of  
413 this section is a felony of the third degree, punishable as  
414 provided in s. 775.082, s. 775.083, or s. 775.084.

415 (5) ~~(4)~~ Notwithstanding the provisions of paragraph (1) (c)  
416 and subsection (3) ~~(2)~~:

417 (a) If the applicant or licensee has been convicted of a  
418 felony, the department shall deny the application or revoke the  
419 license unless and until civil rights have been restored by the  
420 State of Florida or by a state acceptable to Florida and a  
421 period of 10 years has expired since final release from  
422 supervision.

423 (b) A Class "G" applicant who has been convicted of a  
424 felony must ~~shall~~ also have had the specific right to possess,  
425 carry, or use a firearm restored by the State of Florida.

426 (c) If the applicant or licensee has been found guilty of,  
427 entered a plea of guilty to, or entered a plea of nolo  
428 contendere to a felony and adjudication of guilt is withheld,  
429 the department shall deny the application or revoke the license  
430 until a period of 3 years has expired since final release from  
431 supervision.

432 (d) A plea of nolo contendere creates ~~shall create~~ a  
433 rebuttable presumption of guilt to the underlying criminal  
434 charges, and the department shall allow the person being  
435 disciplined or denied an application for a license to present

15-00464A-13

20131040\_\_

436 any mitigating circumstances surrounding his or her plea.

437 (e) The grounds for discipline or denial cited in this  
438 subsection apply ~~shall be applied~~ to a ~~any~~ disqualifying  
439 criminal history regardless of the date of commission of the  
440 underlying criminal charge. Such provisions are ~~shall be~~ applied  
441 retroactively and prospectively.

442 Section 7. Subsection (1) of section 493.6120, Florida  
443 Statutes, is amended to read:

444 493.6120 Violations; penalty.—

445 (1) Any person who violates any provision of this chapter  
446 except ss. 493.6118(2) and ~~s.~~ 493.6405 commits a misdemeanor of  
447 the first degree, punishable as provided in s. 775.082 or s.  
448 775.083.

449 Section 8. Subsection (3) of section 493.6121, Florida  
450 Statutes, is amended to read:

451 493.6121 Enforcement; investigation.—

452 (3) The department has ~~shall have~~ the authority to  
453 investigate a ~~any~~ licensed or unlicensed person, firm, company,  
454 partnership, or corporation when such person, firm, company,  
455 partnership, or corporation is advertising as providing or is  
456 engaged in performing services that ~~which~~ require licensure  
457 under this chapter or when a licensee is engaged in activities  
458 that ~~which~~ do not comply with or are prohibited by this chapter;  
459 and the department has ~~shall have~~ the authority to issue an  
460 order to cease and desist the further conduct of such  
461 activities, or seek an injunction, or take other appropriate  
462 action pursuant to s. 493.6118(3) (a) ~~493.6118(2) (a)~~ or (c).

463 Section 9. Paragraph (b) of subsection (1) and subsections  
464 (2) and (7) of section 496.405, Florida Statutes, are amended to



15-00464A-13

20131040\_\_

465 read:

466 496.405 Registration statements by charitable organizations  
467 and sponsors.—

468 (1)

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

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

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

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

15-00464A-13

20131040\_\_

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

496 (d) A statement of whether:

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

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

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

509 4. The charitable organization or sponsor has voluntarily  
510 entered into an assurance of voluntary compliance in any  
511 jurisdiction or agreement similar to that set forth in s.  
512 496.420, together with a copy of the ~~that~~ agreement.

513 5. The charitable organization or sponsor or any of its  
514 officers, directors, trustees, or employees, regardless of  
515 adjudication, has been convicted of, or found guilty of, or pled  
516 guilty or nolo contendere to, or has been incarcerated within  
517 the last 10 years as a result of having previously been  
518 convicted of, or found guilty of, or pled guilty or nolo  
519 contendere to:7

520 a. A ~~Any felony or any crime involving fraud, theft,~~  
521 ~~larceny, embezzlement, fraudulent conversion, misappropriation~~  
522 ~~of property, or any crime arising from the conduct of a~~

15-00464A-13

20131040\_\_

523 ~~solicitation for a charitable organization or sponsor~~ within the  
524 last 10 years and, if so, the name of such person, the nature of  
525 the offense, the date of the offense, the court having  
526 jurisdiction in the case, the date of conviction or other  
527 disposition, and the disposition of the offense.

528 b. A crime involving fraud, theft, larceny, embezzlement,  
529 fraudulent conversion, misappropriation of property, or a crime  
530 enumerated in this section or resulting from acts committed  
531 while involved in the solicitation of contributions within the  
532 last 10 years and, if so, the name of such person, the nature of  
533 the offense, the date of the offense, the court having  
534 jurisdiction in the case, the date of conviction or other  
535 disposition, and the disposition of the offense.

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

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

549 (f) With initial registration only, a statement showing  
550 when and where the organization was established and the tax-  
551 exempt status of the organization together with a copy of the

15-00464A-13

20131040\_\_

552 ~~any~~ federal tax exemption determination letter. If the  
553 charitable organization or sponsor has not received a federal  
554 tax exemption determination letter at the time of initial  
555 registration, a copy of such determination must be filed with  
556 the department within 30 days after receipt of the determination  
557 by the charitable organization or sponsor. If the organization  
558 is subsequently notified by the Internal Revenue Service of a  
559 ~~any~~ challenge to its continued entitlement to federal tax  
560 exemption, the charitable organization or sponsor shall notify  
561 the department of this fact within 30 days after receipt.

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

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

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

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

15-00464A-13

20131040\_\_

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

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

586 (7) The department must examine each initial registration  
587 statement or annual renewal statement and the supporting  
588 documents filed by a charitable organization or sponsor and  
589 shall determine whether the registration requirements are  
590 satisfied. Within 20 ~~10~~ working days after its receipt of a  
591 statement, the department must examine the statement, notify the  
592 applicant of ~~any~~ apparent errors or omissions, and request ~~any~~  
593 additional information the department is allowed by law to  
594 require. Failure to correct an error or omission or to supply  
595 additional information is not grounds for denial of the initial  
596 registration or annual renewal statement unless the department  
597 has notified the applicant within the 20 ~~10~~-working-day period.  
598 The department must approve or deny each statement, or must  
599 notify the applicant that the activity for which she or he seeks  
600 registration is exempt from the registration requirement, within  
601 20 ~~10~~ working days after receipt of the initial registration or  
602 annual renewal statement or the requested additional information  
603 or correction of errors or omissions. A ~~Any~~ statement that is  
604 not approved or denied within 20 ~~10~~ working days after receipt  
605 of the requested additional information or correction of errors  
606 or omissions is approved. Within 7 working days after receipt of  
607 a notification that the registration requirements are not  
608 satisfied, the charitable organization or sponsor may request a  
609 hearing. The hearing must be held within 7 working days after

15-00464A-13

20131040\_\_

610 receipt of the request, and the ~~any~~ recommended order, if one is  
611 issued, must be rendered within 3 working days of the hearing.  
612 The final order must then be issued within 2 working days after  
613 the recommended order. If a recommended order is not issued, the  
614 final order must be issued within 5 working days after the  
615 hearing. The proceedings must be conducted in accordance with  
616 chapter 120, except that the time limits and provisions set  
617 forth in this subsection prevail to the extent of any conflict.

618 Section 10. Section 496.406, Florida Statutes, is amended  
619 to read:

620 496.406 Exemption from registration. ~~The following~~  
621 ~~charitable organizations and sponsors are exempt from the~~  
622 ~~requirements of s. 496.405:~~

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

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

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

636 (c) ~~(3)~~ A ~~Any~~ division, department, post, or chapter of a  
637 veterans' service organization granted a federal charter under  
638 Title 36, United States Code.

15-00464A-13

20131040\_\_

639 (d) Charitable organizations or sponsors that have less  
640 than \$25,000 in total revenue during a fiscal year, if the  
641 fundraising activities of such organization or sponsor are  
642 carried on by volunteers, members, or officers who are not  
643 compensated and if no part of the assets or income of such  
644 organization or sponsor inures to the benefit of or is paid to  
645 an officer or member of such organization, sponsor, professional  
646 fundraising consultant, professional solicitor, or commercial  
647 co-venturer. If a charitable organization or sponsor that has  
648 less than \$25,000 in total revenue during a fiscal year acquires  
649 total revenue in excess of that amount, the charitable  
650 organization or sponsor must register with the department as  
651 required by s. 496.405 within 30 days after the date the revenue  
652 reaches \$25,000.

653 (2) Before soliciting contributions, each charitable  
654 organization or sponsor under paragraph (1)(d) claiming to be  
655 exempt from the registration requirements specified in s.  
656 496.405 shall submit annually to the department, on forms  
657 prescribed by the department:

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

663 (b) The tax exempt status of the organization.

664 (c) The date the organization's fiscal year ends.

665 (d) The names, street addresses, and telephone numbers of  
666 the individuals or officers who have final responsibility for  
667 the custody of the contributions and who will be responsible for

15-00464A-13

20131040\_\_

668 the final distribution of the contributions.

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

676 (3) A charitable organization or sponsor claiming to be  
677 exempt from the registration requirements of this chapter shall  
678 submit such information that the department may request to  
679 substantiate an exemption under this section. A charitable  
680 organization or sponsor that fails to submit evidence  
681 satisfactory to the department is not exempt from the  
682 requirements of this chapter. In any proceeding, the burden of  
683 proving an exemption is upon the organization or sponsor  
684 claiming the exemption.

685 (4) Exemption from the registration requirements of s.  
686 496.405 does not limit the applicability of other provisions of  
687 this section to a charitable organization or sponsor.

688 Section 11. Subsection (2) of section 496.407, Florida  
689 Statutes, is amended to read:

690 496.407 Financial report.—

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

696 Section 12. Subsections (2), (3), and (6) of section



15-00464A-13

20131040\_\_

697 496.409, Florida Statutes, are amended to read:

698 496.409 Registration and duties of professional fundraising  
699 consultant.—

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

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

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

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

713 (d) Whether any of the owners, directors, officers, or  
714 employees of the applicant are related as parent, child, spouse,  
715 or sibling to ~~any~~ other directors, officers, owners, or  
716 employees of the applicant; to an ~~any~~ officer, director,  
717 trustee, or employee of a ~~any~~ charitable organization or sponsor  
718 under contract to the applicant; or to a ~~any~~ supplier or vendor  
719 providing goods or services to a ~~any~~ charitable organization or  
720 sponsor under contract to the applicant.

721 (e) Whether the applicant or any of its officers,  
722 directors, trustees, or employees have, within the last 10  
723 years, regardless of adjudication, been convicted, or found  
724 guilty of, or pled guilty or nolo contendere to, or have been  
725 incarcerated within the last 10 years as a result of having

15-00464A-13

20131040\_\_

726 previously been convicted of, or found guilty of, or pled guilty  
727 or nolo contendere to, a ~~any~~ felony and, if so, the name of such  
728 person, the nature of the offense, the date of the offense, the  
729 court having jurisdiction in the case, the date of conviction or  
730 other disposition, and the disposition of the offense.

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

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

750 (3) The application for registration must be accompanied by  
751 a fee of \$300. A professional fundraising consultant that ~~which~~  
752 is a partnership or corporation may register for and pay a  
753 single fee on behalf of all of its partners, members, officers,  
754 directors, agents, and employees. In that case, the names and

15-00464A-13

20131040

755 street addresses of all the officers, employees, and agents of  
756 the fundraising consultant and all other persons with whom the  
757 fundraising consultant has contracted to work under its  
758 direction must be listed in the application. Each registration  
759 is valid for 1 year ~~or a part of 1 year and expires on March 31~~  
760 ~~of each year~~. The registration may be renewed ~~on or before March~~  
761 ~~31 of each year~~ for additional 1-year periods upon application  
762 to the department and payment of the registration fee.

763 (6) The department shall examine each registration  
764 statement and supporting documents filed by a professional  
765 fundraising consultant and determine whether the registration  
766 requirements are satisfied. If the department determines that  
767 the registration requirements are not satisfied, the department  
768 must notify the professional fundraising consultant within 20 ~~10~~  
769 working days after its receipt of the registration statement;  
770 otherwise the registration statement is approved. Within 7  
771 working days after receipt of a notification that the  
772 registration requirements are not satisfied, the applicant may  
773 request a hearing. The hearing must be held within 7 working  
774 days after receipt of the request, and the ~~any~~ recommended  
775 order, if one is issued, must be rendered within 3 working days  
776 after the hearing. The final order must then be issued within 2  
777 working days after the recommended order. If there is no  
778 recommended order, the final order must be issued within 5  
779 working days after the hearing. The proceedings must be  
780 conducted in accordance with chapter 120, except that the time  
781 limits and provisions set forth in this subsection prevail to  
782 the extent of any conflict.

783 Section 13. Subsections (2), (3), (5), and (8) of section

15-00464A-13

20131040\_\_

784 496.410, Florida Statutes, are amended to read:

785 496.410 Registration and duties of professional  
786 solicitors.—

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

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

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

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

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

802 (e) A statement as to whether any of the owners, directors,  
803 officers, or employees of the applicant are related as parent,  
804 spouse, child, or sibling to ~~any~~ other directors, officers,  
805 owners, or employees of the applicant; to an ~~any~~ officer,  
806 director, trustee, or employee of a ~~any~~ charitable organization  
807 or sponsor under contract to the applicant; or to a ~~any~~ supplier  
808 or vendor providing goods or services to a ~~any~~ charitable  
809 organization or sponsor under contract to the applicant.

810 (f) A statement as to whether the applicant or any of its  
811 directors, officers, trustees, persons with a controlling  
812 interest in the applicant, or employees or agents involved in

15-00464A-13

20131040\_\_

813 solicitation have, within the last 10 years, regardless of  
814 adjudication, been convicted of, or found guilty of, or pled  
815 guilty or nolo contendere to, or have been incarcerated within  
816 the last 10 years as a result of having previously been  
817 convicted of, or found guilty of, or pled guilty or nolo  
818 contendere to, a ~~any~~ felony and, if so, the name of such person,  
819 the nature of the offense, the date of the offense, the court  
820 having jurisdiction in the case, the date of conviction or other  
821 disposition, and the disposition of the offense.

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

837 (h) A statement as to whether the applicant or any of its  
838 directors, officers, trustees, persons with a controlling  
839 interest in the applicant, or employees or agents involved in  
840 solicitation have been enjoined from violating a ~~any~~ law  
841 relating to a charitable solicitation and, if so, the name of

15-00464A-13

20131040\_\_

842 such person, the date of the injunction, and the court issuing  
843 the injunction.

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

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

861 (5) The department must examine each registration statement  
862 and supporting documents filed by a professional solicitor. If  
863 the department determines that the registration requirements are  
864 not satisfied, the department must notify the professional  
865 solicitor within 20 ~~10~~ working days after its receipt of the  
866 registration statement; otherwise the registration statement is  
867 approved. Within 7 working days after receipt of a notification  
868 that the registration requirements are not satisfied, the  
869 applicant may request a hearing. The hearing must be held within  
870 7 working days after receipt of the request, and the ~~any~~

15-00464A-13

20131040

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

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

889 Section 14. Subsections (3) and (6) of section 496.411,  
890 Florida Statutes, are amended to read:

891 496.411 Disclosure requirements and duties of charitable  
892 organizations and sponsors.—

893 (3) Every charitable organization or sponsor that ~~which~~ is  
894 required to register under s. 496.405 must conspicuously display  
895 ~~in capital letters the following statement~~ on every printed  
896 solicitation, written confirmation, receipt, or reminder of a  
897 contribution:

898 (a) Its registration number; and

899 (b) The following statement written in capital letters

15-00464A-13

20131040\_\_

900 which must include a toll-free telephone number for the division  
901 which can be used to obtain the registration information:

902

903 "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL  
904 INFORMATION MAY BE OBTAINED FROM THE DIVISION OF  
905 CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE  
906 STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT,  
907 APPROVAL, OR RECOMMENDATION BY THE STATE."

908

909 ~~If The statement must include a toll-free number for the~~  
910 ~~division that can be used to obtain the registration~~  
911 ~~information. When the solicitation consists of more than a~~  
912 ~~single item one piece, the registration number and statement~~  
913 ~~must be displayed prominently in the solicitation materials.~~

914 ~~(6) Each charitable organization or sponsor that is~~  
915 ~~required to register under s. 496.405 shall conspicuously~~  
916 ~~display the following information on every printed solicitation,~~  
917 ~~written confirmation, receipt, or reminder of a contribution:~~

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

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

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

925

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



15-00464A-13

20131040\_\_

929 Section 15. Subsection (2) of section 496.415, Florida  
930 Statutes, is amended to read:

931 496.415 Prohibited acts.—It is unlawful for any person in  
932 connection with the planning, conduct, or execution of any  
933 solicitation or charitable or sponsor sales promotion to:

934 (2) Knowingly file false, ~~or~~ misleading, or inaccurate  
935 information in a any document ~~required to be~~ filed with the  
936 department, provided to the public, or in response to a any  
937 request or investigation by the department, the Department of  
938 Legal Affairs, or the State Attorney.

939 Section 16. Present subsections (4) through (9) of section  
940 496.419, Florida Statutes, are redesignated as subsections (5)  
941 through (10), respectively, a new subsection (4) is added to  
942 that section, and present subsections (4) through (9) are  
943 amended, to read:

944 496.419 Powers of the department.—

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

952 (5)~~(4)~~ The department may enter an order imposing one or  
953 more of the penalties set forth in subsection (6) ~~(5)~~ if the  
954 department finds that a charitable organization, sponsor,  
955 professional fundraising consultant, or professional solicitor,  
956 or an agent, servant, or employee thereof has:

957 (a) Violated or is operating in violation of ~~any of the~~

15-00464A-13

20131040\_\_

958 ~~provisions of ss. 496.401-496.424 or s. 496.426 or of the rules~~  
959 ~~adopted or orders issued thereunder;~~

960 (b) Made a material false statement in an application,  
961 statement, or report required to be filed under ss. 496.401-  
962 496.424 or s. 496.426;

963 (c) Refused or failed, or any of its principal officers has  
964 refused or failed, after notice, to produce the ~~any~~ records of  
965 such organization or to disclose ~~any~~ information required to be  
966 disclosed under ss. 496.401-496.424 or s. 496.426 or the rules  
967 of the department; or

968 (d) Made a material false statement in response to a ~~any~~  
969 request or investigation by the department, the Department of  
970 Legal Affairs, or the State Attorney.

971 (6)~~(5)~~ Upon a finding as set forth in subsection (5) ~~(4)~~,  
972 the department may enter an order doing one or more of the  
973 following:

974 (a) Issuing a notice of noncompliance pursuant to s.  
975 120.695;

976 (b) Issuing a cease and desist order that directs that the  
977 person cease and desist specified fundraising activities;

978 (c) Refusing to register or canceling or suspending a  
979 registration;

980 (d) Placing the registrant on probation for a period of  
981 time, subject to such conditions as the department may specify;

982 (e) Canceling an exemption granted under s. 496.406; and

983 (f) Imposing an administrative fine not to exceed \$1,000  
984 for each act or omission that ~~which~~ constitutes a violation of  
985 ss. 496.401-496.424 or s. 496.426 or a rule or order.

986

15-00464A-13

20131040\_\_

987 With respect to a s. 501(c)(3) organization, the penalty imposed  
988 pursuant to this subsection may ~~shall~~ not exceed \$500 per  
989 violation. The penalty is ~~shall be~~ the entire amount per  
990 violation and may ~~is~~ not ~~to~~ be interpreted as a daily penalty.

991 (7) ~~(6)~~ Except as otherwise provided in this section, the  
992 administrative proceedings that could result in the entry of an  
993 order imposing ~~any of~~ the penalties specified in subsection (6)  
994 ~~(5)~~ are governed by chapter 120, except that the applicable  
995 provisions and time limits specified in s. 496.405(7), s.  
996 496.409(6), or s. 496.410(5) apply if the department determines  
997 that a registration should be refused.

998 (8) ~~(7)~~ The department may forward an investigative report  
999 and supporting documentation of an ~~any~~ investigation conducted  
1000 pursuant to this section to the Department of Legal Affairs. The  
1001 report must identify proposed ~~any~~ administrative actions or  
1002 actions that ~~are proposed or~~ have been commenced by the  
1003 department in accordance with subsection (5) ~~(4)~~.

1004 (9) ~~(8)~~ The department shall report a ~~any~~ substantiated  
1005 criminal violation of ss. 496.401-496.424 or s. 496.426 to the  
1006 proper prosecuting authority for prompt prosecution.

1007 (10) ~~(9)~~ All fines collected by the department under  
1008 subsection (6) ~~(5)~~ must be paid into the General Inspection  
1009 Trust Fund.

1010 Section 17. Subsections (1), (2), and (4) of section  
1011 501.016, Florida Statutes, are amended to read:

1012 501.016 Health studios; security requirements.—Each health  
1013 studio that sells contracts for health studio services shall  
1014 meet the following requirements:

1015 (1) Each health studio shall maintain for each separate

15-00464A-13

20131040\_\_

1016 business location a bond issued by a surety company admitted to  
1017 do business in this state. The principal sum of the bond must be  
1018 \$25,000 ~~shall be \$50,000~~, and the bond, when required, shall be  
1019 obtained before a business tax receipt may be issued under  
1020 chapter 205. Upon issuance of a business tax receipt, the  
1021 licensing authority shall immediately notify the department of  
1022 such issuance in a manner established by the department by rule.  
1023 The bond shall be in favor of the state for the benefit of any  
1024 person injured as a result of a violation of ss. 501.012-  
1025 501.019. The aggregate liability of the surety to all persons  
1026 for all breaches of the conditions of such ~~the~~ bonds may not  
1027 ~~provided herein shall in no event~~ exceed the amount of the bond.  
1028 The original surety bond required by this section shall be filed  
1029 with the department.

1030 (2) In lieu of maintaining the bond required in subsection  
1031 (1), the health studio may furnish to the department:

1032 (a) An irrevocable letter of credit from a ~~any~~ foreign or  
1033 domestic bank in the amount of \$25,000 ~~\$50,000~~; or

1034 (b) A guaranty agreement that ~~which~~ is secured by a  
1035 certificate of deposit in the amount of \$25,000 ~~\$50,000~~.

1036  
1037 The original letter of credit or certificate of deposit  
1038 submitted in lieu of the bond shall be filed with the  
1039 department. The department shall determine ~~decide~~ whether the  
1040 security furnished in lieu of bond by the health studio is in  
1041 compliance with the requirements of this section.

1042 (4) If the health studio furnishes the department with  
1043 evidence satisfactory to the department that the aggregate  
1044 dollar amount of all current outstanding contracts of the health

15-00464A-13

20131040\_\_

1045 studio is less than \$5,000, the department may, at its  
1046 discretion, reduce the principal amount of the surety bond or  
1047 other sufficient financial responsibility required in  
1048 subsections (1) and (2) to a sum of not less than \$10,000.  
1049 However, the health studio shall notify the department at any  
1050 time the aggregate dollar amount of such contracts exceeds  
1051 \$5,000, ~~the health studio shall so notify the department~~ and  
1052 shall thereupon provide the bond or other documentation as  
1053 required in subsections (1) and (2). Health studios whose bonds  
1054 have been reduced must provide the department with an annually  
1055 updated list of members. The department shall raise the security  
1056 requirement to \$25,000 for a health studio that fails ~~Failure to~~  
1057 ~~file an annual report will result in the department raising the~~  
1058 ~~security requirement to \$50,000.~~

1059 Section 18. Subsection (4) of section 501.059, Florida  
1060 Statutes, is amended to read:

1061 501.059 Telephone solicitation.—

1062 (4) (a) A ~~No~~ telephone solicitor may not ~~shall~~ make or cause  
1063 to be made any unsolicited telephonic sales call to a ~~any~~  
1064 residential, mobile, or telephonic paging device telephone  
1065 number if the number for that telephone appears in the then-  
1066 current quarterly listing published by the department. A ~~Any~~  
1067 telephone solicitor or person who offers for sale ~~any~~ consumer  
1068 information that ~~which~~ includes residential, mobile, or  
1069 telephonic paging device telephone numbers, except directory  
1070 assistance and telephone directories sold by telephone companies  
1071 and organizations exempt under s. 501(c) (3) or (6) of the  
1072 Internal Revenue Code, shall screen and exclude those numbers  
1073 that ~~which~~ appear on the division's then-current "no sales

15-00464A-13

20131040\_\_

1074 solicitation calls" list. This subsection does not apply to a  
1075 ~~any~~ person licensed pursuant to chapter 475 who calls an actual  
1076 or prospective seller or lessor of real property when such call  
1077 is made in response to a yard sign or other form of  
1078 advertisement placed by the seller or lessor.

1079 (b) A person is in violation of this subsection if the  
1080 person initiates an outbound telephonic sales call to a consumer  
1081 who has previously communicated to the telephone solicitor that  
1082 he or she does not wish to receive an outbound telephone call:

1083 1. Made by or on behalf of the seller whose goods or  
1084 services are being offered; or

1085 2. Made by or on behalf of a charitable organization for  
1086 which a charitable contribution is being solicited.

1087 Section 19. Subsections (1) and (2) of section 501.603,  
1088 Florida Statutes, are amended to read:

1089 501.603 Definitions.—As used in this part, unless the  
1090 context otherwise requires, the term:

1091 (1) "Commercial telephone solicitation" means:

1092 (a) An unsolicited telephone call to a person initiated by  
1093 a commercial telephone seller or salesperson, or an automated  
1094 dialing machine used in accordance with the provisions of s.  
1095 501.059(7) for the purpose of inducing the person to purchase or  
1096 invest in consumer goods or services;

1097 (b) Other communication with a person where:

1098 1. A gift, award, or prize is offered; or

1099 2. A telephone call response is invited; and

1100 3. The salesperson intends to complete a sale or enter into  
1101 an agreement to purchase or invest in consumer goods or services  
1102 during the course of the telephone call; or

15-00464A-13

20131040\_\_

1103 (c) Other communication with a person which represents a  
 1104 price, quality, or availability of consumer goods or services  
 1105 and which invites a response by telephone or which is followed  
 1106 by a call to the person by a salesperson.

1107  
 1108 For purposes of this section, "other communication" means a  
 1109 written or oral notification or advertisement transmitted  
 1110 through any means. Also, for purposes of this section, "invites  
 1111 a response by telephone" does not mean the mere listing or  
 1112 including of a telephone number in a notification or  
 1113 advertisement.

1114 (2) "Commercial telephone seller" means a ~~any~~ person who  
 1115 engages in commercial telephone solicitation on his or her own  
 1116 behalf or through salespersons, except that a commercial  
 1117 telephone seller does not include ~~any of the~~ persons or entities  
 1118 operating under a properly filed and valid affidavit of  
 1119 exemption pursuant to ~~exempted from this part by~~ s. 501.604. A  
 1120 commercial telephone seller does not include a salesperson as  
 1121 defined in subsection (10). A commercial telephone seller  
 1122 includes, but is not limited to, owners, operators, officers,  
 1123 directors, partners, or other individuals engaged in the  
 1124 management activities of a business entity pursuant to this  
 1125 part.

1126 Section 20. Subsections (4), (7), (10), (14), and (24) of  
 1127 section 501.604, Florida Statutes, are amended to read:

1128 501.604 Exemptions.—The provisions of this part, except ss.  
 1129 501.608 and 501.616(6) and (7), do not apply to:

1130 (4) A ~~Any~~ licensed securities, commodities, or investment  
 1131 broker, dealer, or investment adviser, when soliciting within

15-00464A-13

20131040\_\_

1132 the scope of his or her license, or a ~~any~~ licensed associated  
1133 person of a securities, commodities, or investment broker,  
1134 dealer, or investment adviser, when soliciting within the scope  
1135 of his or her license. As used in this section, "licensed  
1136 securities, commodities, or investment broker, dealer, or  
1137 investment adviser" means a person subject to license or  
1138 registration as such by the Securities and Exchange Commission,  
1139 by the Financial Industry Regulatory Authority ~~National~~  
1140 ~~Association of Securities Dealers~~ or other self-regulatory  
1141 organization as defined by the Securities Exchange Act of 1934,  
1142 15 U.S.C. s. 781, or by an official or agency of this or another  
1143 state ~~or of any state~~ of the United States. As used in this  
1144 section, "licensed associated person of a securities,  
1145 commodities, or investment broker, dealer, or investment  
1146 adviser" means an ~~any~~ associated person registered or licensed  
1147 by the Financial Industry Regulatory Authority ~~National~~  
1148 ~~Association of Securities Dealers~~ or other self-regulatory  
1149 organization as defined by the Securities Exchange Act of 1934,  
1150 15 U.S.C. s. 781, or by an official or agency of this or another  
1151 state ~~or of any state~~ of the United States.

1152 (7) A ~~Any~~ supervised financial institution or parent,  
1153 subsidiary, or affiliate thereof operating within the scope of  
1154 the supervised activity. As used in this section, "supervised  
1155 financial institution" means a ~~any~~ commercial bank, trust  
1156 company, savings and loan association, mutual savings bank,  
1157 credit union, industrial loan company, consumer finance lender,  
1158 commercial finance lender, or insurer, provided that the  
1159 institution is subject to supervision by an official or agency  
1160 of this state, of any state, or of the United States. For the



15-00464A-13

20131040\_\_

1161 purposes of this exemption, "affiliate" means a person who  
1162 directly, or indirectly through one or more intermediaries,  
1163 controls or is controlled by, or is under common control with, a  
1164 supervised financial institution.

1165 (10) A business-to-business sale where:

1166 (a) The commercial telephone seller has been lawfully  
1167 operating continuously for at least 3 years under the same  
1168 business name and has at least 50 percent of its dollar volume  
1169 consisting of repeat sales to existing businesses;

1170 (b) The purchaser business intends to resell or offer for  
1171 purposes of advertisement or as a promotional item the property  
1172 or goods purchased; or

1173 (c) The purchaser business intends to use the property or  
1174 goods purchased in a recycling, reuse, remanufacturing, or  
1175 manufacturing process.

1176 (14) A telephone company subject to the provisions of  
1177 chapter 364, or affiliate thereof or its agents, or a  
1178 telecommunications business that ~~which~~ is regulated by the  
1179 Florida Public Service Commission, or a Federal Communications  
1180 Commission licensed cellular telephone company or other bona  
1181 fide radio telecommunication services provider. For the purposes  
1182 of this exemption, "affiliate" means a person who directly, or  
1183 indirectly through one or more intermediaries, controls or is  
1184 controlled by, or is under common control with, a telephone  
1185 company subject to the provisions of chapter 364.

1186 (24) An entity that ~~Any person which~~ has been lawfully  
1187 providing telemarketing sales services continuously for at least  
1188 5 years under the same ownership and control and that ~~which~~  
1189 derives 75 percent of its gross telemarketing sales revenues

15-00464A-13

20131040\_\_

1190 from contracts with persons exempted in this section.

1191 Section 21. Present paragraphs (c) through (h) of  
1192 subsection (1) of section 501.607, Florida Statutes, are  
1193 redesignated as paragraphs (b) through (g), respectively, and  
1194 present paragraph (b) of subsection (1) of that section is  
1195 amended, to read:

1196 501.607 Licensure of salespersons.—

1197 (1) An applicant for a license as a salesperson must submit  
1198 to the department, in such form as it prescribes, a written  
1199 application for a license. The application must set forth the  
1200 following information:

1201 ~~(b) Each business or occupation engaged in by the applicant~~  
1202 ~~during the 3 years immediately preceding the date of the~~  
1203 ~~application, and the location thereof.~~

1204 Section 22. Paragraph (b) of subsection (1) and subsections  
1205 (2) and (3) of section 501.608, Florida Statutes, are amended to  
1206 read:

1207 501.608 License or affidavit of exemption; occupational  
1208 license.—

1209 (1)

1210 (b) A ~~Any~~ commercial telephone seller that claims ~~claiming~~  
1211 to be exempt from the act under s. 501.604(2), (3), (5), (6),  
1212 (9), (10), (11), (12), (17), (21), (22), (24), or (26) must file  
1213 with the department a notarized affidavit of exemption. The  
1214 affidavit of exemption must be on forms prescribed by the  
1215 department and must require the name of the commercial telephone  
1216 seller, the name of the business, and the business address. A  
1217 ~~Any~~ commercial telephone seller that maintains ~~maintaining~~ more  
1218 than one business may file a single notarized affidavit of

15-00464A-13

20131040

1219 exemption that clearly indicates the location of each place of  
1220 business. If a change of ownership occurs, the commercial  
1221 telephone seller must notify the department. At the request of  
1222 the department, the commercial telephone seller shall provide  
1223 sales scripts, contracts, and other documentation in order to  
1224 determine if the affidavit of exemption is appropriate before  
1225 accepting such affidavit for filing.

1226 (2) Each licensee or person operating under a valid and  
1227 appropriately filed exemption ~~claiming an exemption~~ shall  
1228 prominently display his or her license or a copy of his or her  
1229 receipt of filing of the affidavit of exemption at each location  
1230 where he or she does business. Each licensee or person claiming  
1231 an exemption shall make the license or the receipt of filing  
1232 ~~copy~~ of the affidavit of exemption available for inspection upon  
1233 request by a ~~by any~~ governmental agency ~~upon request~~.

1234 (3) Failure to obtain or display a license or ~~a copy of the~~  
1235 receipt of filing of an affidavit of exemption is sufficient  
1236 grounds for the department to issue an immediate cease and  
1237 desist order, which acts ~~shall act~~ as an immediate final order  
1238 under s. 120.569(2) (n). The order shall ~~may~~ remain in effect  
1239 until the commercial telephone seller or a person claiming to be  
1240 exempt shows the authorities that he or she is properly licensed  
1241 or exempt. The department may order the business to cease  
1242 operations and shall order the phones to be shut off. Failure of  
1243 a salesperson to display a license may result in the salesperson  
1244 being summarily ordered by the department to leave the office  
1245 until he or she can produce a license for the department.

1246 Section 23. Subsection (3) of section 501.611, Florida  
1247 Statutes, is amended to read:

15-00464A-13

20131040\_\_

1248 501.611 Security.-

1249 (3) The bond shall be posted with the department and must  
1250 remain in force throughout the period of licensure with the  
1251 department.

1252 Section 24. Subsection (12) of section 501.615, Florida  
1253 Statutes, is amended to read:

1254 501.615 Written contract; cancellation; refund.-

1255 (12) A sale in which the consumer is given a full refund  
1256 for the return of undamaged and unused goods or in which a  
1257 cancellation of services notice is given to the seller within 7  
1258 days after the date of the sale is exempt from the requirements  
1259 of subsections (1)-(5). A commercial telephone seller or  
1260 salesperson engaged in activity regulated by chapter 721 must  
1261 comply with s. 721.205 ~~Exempt from the requirements of~~  
1262 ~~subsections (1)-(5) is any sale in which the consumer is given a~~  
1263 ~~full refund for the return of undamaged and unused goods or a~~  
1264 ~~cancellation of services notice is given to the seller, within 7~~  
1265 ~~days after receipt of the goods or services by the consumer, and~~  
1266 ~~the seller shall process the refund within 30 days after receipt~~  
1267 ~~of the returned merchandise by the consumer.~~

1268 Section 25. Subsection (1) of section 501.617, Florida  
1269 Statutes, is amended to read:

1270 501.617 Investigative powers of enforcing authority.-

1271 (1) If, by her or his own inquiries or as a result of  
1272 complaints, the enforcing authority has reason to believe that a  
1273 person has engaged in, or is engaging in, an act or practice  
1274 that violates the provisions of this part, she or he may  
1275 administer oaths and affirmations, subpoena witnesses or matter,  
1276 conduct regulatory inspections, and collect evidence. Within 10

15-00464A-13

20131040\_\_

1277 days after the service of a subpoena or at any time before the  
1278 return date specified therein, whichever is longer, the party  
1279 served may file in the circuit court in the county in which she  
1280 or he resides or in which she or he transacts business and serve  
1281 upon the enforcing authority a petition for an order modifying  
1282 or setting aside the subpoena. The petitioner may raise an ~~any~~  
1283 objection or privilege that ~~which~~ would be available under this  
1284 part or upon service of such subpoena in a civil action. The  
1285 subpoena must ~~shall~~ inform the party served of her or his rights  
1286 under this subsection.

1287 Section 26. Subsection (10) is added to section 507.03,  
1288 Florida Statutes, to read:

1289 507.03 Registration.—

1290 (10) Upon the request of the department, each moving broker  
1291 shall provide a complete list of the movers it has contracted or  
1292 affiliated with, advertises on behalf of, arranges moves for, or  
1293 to which it refers shippers. Such list, at a minimum, must  
1294 include the mover's complete name, address, telephone number,  
1295 email address, and name of the owner or other principal.

1296 Section 27. Paragraph (b) of subsection (1) of section  
1297 507.04, Florida Statutes, is amended to read:

1298 507.04 Required insurance coverages; liability limitations;  
1299 valuation coverage.—

1300 (1) LIABILITY INSURANCE.—

1301 (b) A mover that operates two or fewer vehicles, in lieu of  
1302 maintaining the liability insurance coverage required under  
1303 paragraph (a), ~~may, and each moving broker must,~~ maintain one of  
1304 the following alternative coverages:

1305 1. A performance bond in the amount of \$25,000, for which

15-00464A-13

20131040\_\_

1306 the surety of the bond must be a surety company authorized to  
1307 conduct business in this state; or

1308 2. A certificate of deposit in a Florida banking  
1309 institution in the amount of \$25,000.

1310

1311 The original bond or certificate of deposit must be filed with  
1312 the department and must designate the department as the sole  
1313 beneficiary. The department must use the bond or certificate of  
1314 deposit exclusively for the payment of claims to consumers who  
1315 are injured by the fraud, misrepresentation, breach of contract,  
1316 misfeasance, malfeasance, or financial failure of the mover ~~or~~  
1317 ~~moving broker~~ or by a violation of this chapter by the mover ~~or~~  
1318 ~~broker~~. Liability for these injuries may be determined in an  
1319 administrative proceeding of the department or through a civil  
1320 action in a court of competent jurisdiction. However, claims  
1321 against the bond or certificate of deposit must ~~only~~ be paid, in  
1322 amounts not to exceed the determined liability for these  
1323 injuries, only by order of the department in an administrative  
1324 proceeding. The bond or certificate of deposit is subject to  
1325 successive claims, but the aggregate amount of these claims may  
1326 not exceed the amount of the bond or certificate of deposit.

1327 Section 28. Subsections (7) and (8) are added to section  
1328 507.07, Florida Statutes, to read:

1329 507.07 Violations.—It is a violation of this chapter to:

1330 (7) Conduct business as a moving broker, advertise to  
1331 engage in the business of a moving broker, or offer to perform a  
1332 move through a subcontract or agreement with a mover who is not  
1333 registered with the department under this part.

1334 (8) Conduct business as a mover, advertise to engage in the

15-00464A-13

20131040\_\_

1335 business of moving, or offer to perform a move through a  
1336 subcontract or agreement with a moving broker who is not  
1337 registered with the department pursuant to the provisions on  
1338 this part.

1339 Section 29. Paragraph (c) of subsection (1) of section  
1340 525.01, Florida Statutes, is amended to read:

1341 525.01 Gasoline and oil to be inspected.—

1342 (1) For the purpose of this chapter:

1343 (c) "Alternative fuel" means:

1344 1. Methanol, denatured ethanol, or other alcohols;

1345 2. Mixtures of gasoline or other fuels with methanol,  
1346 denatured ethanol, or other alcohols ~~Mixtures containing 85~~  
1347 ~~percent or more by volume of methanol, denatured ethanol, or~~  
1348 ~~other alcohols with gasoline or other fuels, or such other~~  
1349 ~~percentage, but not less than 70 percent, as determined by the~~  
1350 ~~department by rule, to provide for requirements relating to cold~~  
1351 ~~start, safety, or vehicle functions;~~

1352 3. Hydrogen;

1353 4. Coal-derived liquid fuels; and

1354 5. Fuels, other than alcohol, derived from biological  
1355 materials.

1356 Section 30. Subsections (2) through (4) of section 525.09,  
1357 Florida Statutes, are repealed.

1358 Section 31. Section 525.10, Florida Statutes, is amended to  
1359 read:

1360 525.10 ~~Moneys to be paid into State Treasury;~~ Payment of  
1361 expenses. ~~All moneys payable under this chapter shall be payable~~  
1362 ~~to the department and shall be paid by it into the State~~  
1363 ~~Treasury monthly to be deposited into the General Inspection~~

15-00464A-13

20131040\_\_

1364 ~~Trust Fund.~~ All expenses incurred in the enforcement of this  
1365 chapter and other inspection laws of this state for which fees  
1366 or taxes are collected, including acquiring equipment and other  
1367 property, shall be paid from the General Inspection Trust Fund.  
1368 No money may ~~shall~~ be paid to an ~~any~~ inspector or employee  
1369 created under this chapter except from the funds collected from  
1370 the administration of this chapter.

1371 Section 32. Subsection (20) is added to section 527.01,  
1372 Florida Statutes, to read:

1373 527.01 Definitions.—As used in this chapter:

1374 (20) "License year" means the period from either September  
1375 1 through the following August 31, or April 1 through the  
1376 following March 31, depending upon the type of license.

1377 Section 33. Subsections (1) and (3) and paragraphs (a) and  
1378 (c) of subsection (5) of section 527.0201, Florida Statutes, are  
1379 amended to read:

1380 527.0201 Qualifiers; master qualifiers; examinations.—

1381 (1) In addition to the requirements of s. 527.02, a ~~any~~  
1382 person applying for a license to engage in the activities of a  
1383 pipeline system operator, category I liquefied petroleum gas  
1384 dealer, category II liquefied petroleum gas dispenser, category  
1385 IV liquefied petroleum gas dispenser and recreational vehicle  
1386 servicer, category V liquefied petroleum gases dealer for  
1387 industrial uses only, LP gas installer, specialty installer,  
1388 requalifier ~~requalification~~ of cylinders, or fabricator,  
1389 repairer, and tester of vehicles and cargo tanks must prove  
1390 competency by passing a written examination administered by the  
1391 department or its agent with a grade of at least 75 percent in  
1392 each area tested ~~or above~~. Each applicant for examination shall



15-00464A-13

20131040

1393 submit a \$20 nonrefundable fee. The department shall by rule  
1394 specify the general areas of competency to be covered by each  
1395 examination and the relative weight to be assigned in grading  
1396 each area tested.

1397 (3) Qualifier cards issued to category I liquefied  
1398 petroleum gas dealers and liquefied petroleum gas installers  
1399 ~~shall~~ expire 3 years after the date of issuance. All category I  
1400 liquefied petroleum gas dealer qualifiers and liquefied  
1401 petroleum gas installer qualifiers holding a valid qualifier  
1402 card upon the effective date of this act ~~shall~~ retain their  
1403 qualifier status until July 1, 2003, and may sit for the master  
1404 qualifier examination at any time during that time period. All  
1405 such category I liquefied petroleum gas dealer qualifiers and  
1406 liquefied petroleum gas installer qualifiers may renew their  
1407 qualification on or before July 1, 2003, upon application to the  
1408 department, payment of a \$20 renewal fee, and documentation of  
1409 the completion of a minimum of 16 ~~12~~ hours approved continuing  
1410 education courses, as defined by department rule, during the  
1411 previous 3-year period. Applications for renewal must be made 30  
1412 calendar days before ~~prior to~~ expiration. Persons failing to  
1413 renew before ~~prior to~~ the expiration date must reapply and take  
1414 a qualifier competency examination in order to reestablish  
1415 category I liquefied petroleum gas dealer qualifier and  
1416 liquefied petroleum gas installer qualifier status. If a  
1417 category I liquefied petroleum gas qualifier or liquefied  
1418 petroleum gas installer qualifier becomes a master qualifier at  
1419 any time during the effective date of the qualifier card, the  
1420 card remains ~~shall remain~~ in effect until expiration of the  
1421 master qualifier certification.

15-00464A-13

20131040

1422 (5) In addition to all other licensing requirements, each  
1423 category I liquefied petroleum gas dealer and liquefied  
1424 petroleum gas installer must, at the time of application for  
1425 licensure, identify to the department one master qualifier who  
1426 is a full-time employee at the licensed location. The master  
1427 qualifier must ~~This person shall~~ be a manager, owner, or  
1428 otherwise primarily responsible for overseeing the operations of  
1429 the licensed location and must provide documentation to the  
1430 department as provided by rule. The master qualifier requirement  
1431 is shall be in addition to the requirements of subsection (1).

1432 (a) In order to apply for certification as a master  
1433 qualifier, each applicant must be a category I liquefied  
1434 petroleum gas dealer qualifier or liquefied petroleum gas  
1435 installer qualifier, must be employed by a licensed category I  
1436 liquefied petroleum gas dealer, liquefied petroleum gas  
1437 installer, or applicant for such license, must provide  
1438 documentation of a minimum of 1 year's work experience in the  
1439 gas industry, and must pass a master qualifier competency  
1440 examination. Master qualifier examinations shall be based on  
1441 Florida's laws, rules, and adopted codes governing liquefied  
1442 petroleum gas safety, general industry safety standards, and  
1443 administrative procedures. The applicant must pass the  
1444 examination ~~must be successfully completed by the applicant~~ with  
1445 a grade of at least 75 percent ~~or more~~. Each applicant for  
1446 master qualifier status shall submit to the department a  
1447 nonrefundable \$30 examination fee before ~~prior to~~ the  
1448 examination.

1449 (c) Master qualifier status expires ~~shall expire~~ 3 years  
1450 after the date of issuance of the certificate and may be renewed

15-00464A-13

20131040\_\_

1451 by submission to the department of documentation of completion  
1452 of at least 16 ~~12~~ hours of approved continuing education courses  
1453 during the 3-year period; proof of employment with a licensed  
1454 category I liquefied petroleum gas dealer, liquefied petroleum  
1455 gas installer, or applicant; and a \$30 certificate renewal fee.  
1456 The department shall define, by rule, approved courses of  
1457 continuing education.

1458 Section 34. Section 527.03, Florida Statutes, is amended to  
1459 read:

1460 527.03 Annual renewal of license.—All licenses required  
1461 under this chapter shall be renewed annually subject to the  
1462 license fees prescribed in s. 527.02. With the exception of the  
1463 Category III Liquefied Petroleum Gas Cylinder Exchange Operator  
1464 license and the Dealer in Appliances and Equipment for Use of  
1465 Liquefied Petroleum Gas license, all licenses shall be renewed  
1466 for the period beginning September 1 and shall expire on the  
1467 following August 31 unless sooner suspended, revoked, or  
1468 otherwise terminated. All Category III Liquefied Petroleum Gas  
1469 Cylinder Exchange Operator licenses and Dealer in Appliances and  
1470 Equipment for Use of Liquefied Petroleum Gas licenses shall be  
1471 renewed for the period beginning April 1 and expire on the  
1472 following March 31 unless sooner suspended, revoked, or  
1473 otherwise terminated. A Any license allowed to expire becomes on  
1474 August 31 shall become inoperative because of failure to renew.  
1475 The fee for restoration of a license is equal to the original  
1476 license fee and must be paid before the licensee may resume  
1477 operations.

1478 Section 35. Subsection (3) of section 531.415, Florida  
1479 Statutes, is amended to read:

15-00464A-13

20131040\_\_

1480 531.415 Fees.—

1481 (3) ~~Any petroleum product taxed under s. 525.09 and any~~  
1482 Petroleum equipment that is used to measure petroleum fuel, as  
1483 defined in s. 525.01, and owned by a person licensed pursuant to  
1484 chapter 206 is exempt from the fees established in this section.

1485 Section 36. Subsection (3) of section 531.61, Florida  
1486 Statutes, is amended to read:

1487 531.61 Exemptions from permit requirement.—Commercial  
1488 weights or measures instruments or devices are exempt from the  
1489 permit requirements of ss. 531.60-531.66 if:

1490 (3) The device is used exclusively for measuring aviation  
1491 fuel or petroleum products inspected ~~taxed~~ under chapter 525 s.  
1492 ~~525.09.~~

1493 Section 37. Section 40 of chapter 2009-66, Laws of Florida,  
1494 is amended to read:

1495 Section 40. Sections 531.60, 531.61, 531.62, 531.63,  
1496 531.64, 531.65, and 531.66, Florida Statutes, as created by this  
1497 act, shall expire July 1, 2020 ~~2014~~.

1498 Section 38. Paragraph (c) of subsection (5) of section  
1499 539.001, Florida Statutes, is amended to read:

1500 539.001 The Florida Pawnbroking Act.—

1501 (5) APPLICATION FOR LICENSE.—

1502 (c) Each initial application for a license must be  
1503 accompanied by a complete set of fingerprints taken by an  
1504 authorized law enforcement officer or a fingerprinting service  
1505 provider approved by the Department of Law Enforcement, \$300 for  
1506 the first year's license fee, and the actual cost to the agency  
1507 for fingerprint analysis for each person subject to the  
1508 eligibility requirements. The agency shall submit the

15-00464A-13

20131040\_\_

1509 fingerprints to the Department of Law Enforcement for state  
1510 processing, and the Department of Law Enforcement shall forward  
1511 the fingerprints to the Federal Bureau of Investigation for a  
1512 national criminal history check. These fees and costs are not  
1513 refundable.

1514 Section 39. Subsection (1) of section 559.802, Florida  
1515 Statutes, is amended to read:

1516 559.802 Franchises; exemption.—

1517 (1) The sale of a franchise is exempt from this part if:

1518 (a) The franchise meets the definition of that term as  
1519 defined by the Federal Trade Commission regulations entitled,  
1520 "Disclosure Requirements and Prohibitions Concerning Franchising  
1521 and Business Opportunity Ventures," as set forth in 16 C.F.R.  
1522 ss. 436.1 et seq.; and

1523 (b) Before offering for sale or selling a franchise to be  
1524 located in this state or to a resident of this state, the  
1525 franchisor files a notice with the department stating that the  
1526 franchisor is in substantial compliance with the requirements of  
1527 the Federal Trade Commission rule, and pays a fee in an amount  
1528 set by the department, not exceeding \$100. This notice shall be  
1529 filed on a form promulgated by the department.

1530 Section 40. Section 559.803, Florida Statutes, is amended  
1531 to read:

1532 559.803 Disclosure statement.—At least 3 working days prior  
1533 to the time the purchaser signs a business opportunity contract,  
1534 or at least 3 working days prior to the receipt of any  
1535 consideration by the seller, whichever occurs first, the seller  
1536 must provide the prospective purchaser a written document, the  
1537 cover sheet of which is entitled in at least 12-point boldfaced

15-00464A-13

20131040

1538 capital letters "DISCLOSURES REQUIRED BY FLORIDA LAW." Under  
1539 this title shall appear the following statement in at least 10-  
1540 point type: "The State of Florida has not reviewed and does not  
1541 approve, recommend, endorse, or sponsor any business  
1542 opportunity. The information contained in this disclosure has  
1543 not been verified by the state. If you have any questions about  
1544 this investment, see an attorney before you sign a contract or  
1545 agreement." Nothing except the title and required statement  
1546 shall appear on the cover sheet. Immediately following the cover  
1547 sheet, the seller must provide an index page that briefly lists  
1548 the contents of the disclosure document as required in this  
1549 section and any pages on which the prospective purchaser can  
1550 find each required disclosure. At the top of the index page, the  
1551 following statement must appear in at least 10-point type: "The  
1552 State of Florida requires sellers of business opportunities to  
1553 disclose certain information to prospective purchasers. This  
1554 index is provided to help you locate this information." If the  
1555 index contains other information not required by this section,  
1556 the seller shall place a designation beside each of the  
1557 disclosures required by this section and provide an explanation  
1558 of the designation at the end of the statement at the top of the  
1559 index page. The disclosure document shall contain the following  
1560 information:

1561 (1) The name of the seller; whether the seller is doing  
1562 business as an individual, partnership, corporation, or other  
1563 business entity; the names under which the seller has done  
1564 business; and the name of any parent or affiliated company that  
1565 will engage in business transactions with the purchasers or who  
1566 takes responsibility for statements made by the seller.

15-00464A-13

20131040\_\_

1567 (2) The names, addresses, and titles of the seller's  
1568 officers, directors, trustees, general partners, general  
1569 managers, and principal executives and of any other persons  
1570 charged with the responsibility for the seller's business  
1571 activities relating to the sale of business opportunities.

1572 (3) The length of time the seller has:

1573 (a) Sold business opportunities; or

1574 (b) Sold business opportunities involving the products,  
1575 equipment, supplies, or services currently being offered to the  
1576 purchaser.

1577 (4) A full and detailed description of the actual services  
1578 that the business opportunity seller undertakes to perform for  
1579 the purchaser.

1580 (5) A copy of a current (not older than 13 months)  
1581 financial statement of the seller, updated to reflect material  
1582 changes in the seller's financial condition.

1583 (6) If training is promised by the seller, a complete  
1584 description of the training, the length of the training, and the  
1585 cost or incidental expenses of that training, which cost or  
1586 expense the purchaser will be required to incur.

1587 (7) If the seller promises services to be performed in  
1588 connection with the placement of the equipment, product, or  
1589 supplies at a location, the full nature of those services as  
1590 well as the nature of the agreements to be made with the owners  
1591 or managers of the location where the purchaser's equipment,  
1592 product, or supplies will be placed.

1593 (8) If the business opportunity seller is required to  
1594 secure a bond, guaranteed letter of credit, or certificate of  
1595 deposit pursuant to s. 559.807, either of the following

15-00464A-13

20131040\_\_

1596 statements:

1597 (a) "As required by Florida law, the seller has secured a  
1598 bond issued by . . . ., a surety company authorized to do business  
1599 in this state. Before signing a contract to purchase this  
1600 business opportunity, you should confirm the bond's status with  
1601 the surety company."; or

1602 (b) "As required by Florida law, the seller has established  
1603 a guaranteed letter of credit or certificate of deposit  
1604 . . . (number of account) . . . with . . . (name and address of bank or  
1605 savings institution) . . . . Before signing a contract to purchase  
1606 this business opportunity, you should confirm with the bank or  
1607 savings institution the current status of the guaranteed letter  
1608 of credit or certificate of deposit."

1609 (9) The following statement: "If the seller fails to  
1610 deliver the product, equipment, or supplies necessary to begin  
1611 substantial operation of the business within 45 days of the  
1612 delivery date stated in your contract, you may notify the seller  
1613 in writing and cancel your contract."

1614 (10) If the seller makes any statement concerning sales or  
1615 earnings or a range of sales or earnings that may be made  
1616 through this business opportunity, a statement disclosing:

1617 (a) The total number of purchasers of business  
1618 opportunities involving the product, equipment, supplies, or  
1619 services being offered who have actually achieved sales of or  
1620 received earnings in the amount or range specified within 3  
1621 years prior to the date of the disclosure statement.

1622 (b) The total number of purchasers of business  
1623 opportunities involving the product, equipment, supplies, or  
1624 services being offered within 3 years prior to the date of the



15-00464A-13

20131040\_\_

1625 disclosure statement.

1626 (11) (a) The total number of persons who purchased the  
1627 business opportunity being offered by the seller within the past  
1628 3 years.

1629 (b) The names, addresses, and telephone numbers of the 10  
1630 persons who previously purchased the business opportunity from  
1631 the seller and who are geographically closest to the potential  
1632 purchaser.

1633 (12) A statement disclosing who, if any, of the persons  
1634 listed in subsections (1) and (2):

1635 (a) Has, at any time during the previous 10 fiscal years,  
1636 regardless of adjudication, been convicted of, or found guilty  
1637 of, or pled guilty or nolo contendere to, or has been  
1638 incarcerated within the last 10 years as a result of having  
1639 previously been convicted of, or found guilty of, or pled guilty  
1640 or nolo contendere to, a felony or a crime involving fraud,  
1641 theft, larceny, violation of any franchise or business  
1642 opportunity law or unfair or deceptive practices law,  
1643 embezzlement, fraudulent conversion, misappropriation of  
1644 property, or restraint of trade.

1645 (b) Has, at any time during the previous 7 fiscal years,  
1646 been held liable in a civil action resulting in a final judgment  
1647 or has settled out of court any civil action or is a party to  
1648 any civil action involving allegations of fraud (including  
1649 violation of any franchise or business opportunity law or unfair  
1650 or deceptive practices law), embezzlement, fraudulent  
1651 conversion, misappropriation of property, or restraint of trade  
1652 or any civil action which was brought by a present or former  
1653 franchisee or franchisees and which involves or involved the

15-00464A-13

20131040

1654 franchise relationship. However, only material individual civil  
1655 actions need be so listed pursuant to this paragraph, including  
1656 any group of civil actions which, irrespective of the  
1657 materiality of any single such action, in the aggregate is  
1658 material.

1659 (c) Is subject to any currently effective state or federal  
1660 agency or court injunctive or restrictive order, or has been  
1661 subject to any administrative action in which an order by a  
1662 governmental agency was rendered, or is a party to a proceeding  
1663 currently pending in which such order is sought, relating to or  
1664 affecting business opportunities activities or the business  
1665 opportunity seller-purchaser relationship or involving fraud  
1666 (including violation of any franchise or business opportunity  
1667 law or unfair or deceptive practices law), embezzlement,  
1668 fraudulent conversion, misappropriation of property, or  
1669 restraint of trade.

1670  
1671 Such statement shall set forth the identity and location of the  
1672 court or agency; the date of conviction, judgment, or decision;  
1673 the penalty imposed; the damages assessed; the terms of  
1674 settlement or the terms of the order; and the date, nature, and  
1675 issuer of each such order or ruling. A business opportunity  
1676 seller may include a summary opinion of counsel as to any  
1677 pending litigation, but only if counsel's consent to the use of  
1678 such opinion is included in the disclosure statement.

1679 (13) A statement disclosing who, if any, of the persons  
1680 listed in subsections (1) and (2) at any time during the  
1681 previous 7 fiscal years has:

1682 (a) Filed in bankruptcy.

15-00464A-13

20131040\_\_

1683 (b) Been adjudged bankrupt.  
1684 (c) Been reorganized due to insolvency.  
1685 (d) Been a principal, director, executive officer, or  
1686 partner of any other person that has so filed or was so adjudged  
1687 or reorganized during or within 1 year after the period that  
1688 such person held such position in relation to such other person.  
1689 If so, the name and location of the person having so filed or  
1690 having been so adjudged or reorganized, the date thereof, and  
1691 any other material facts relating thereto shall be set forth.

1692 (14) A copy of the business opportunity contract ~~which~~ the  
1693 seller uses as a matter of course and which is to be presented  
1694 to the purchaser at closing.

1695  
1696 ~~Should any seller of business opportunities prepare a disclosure~~  
1697 ~~statement pursuant to 16 C.F.R. ss. 436.1 et seq., a Trade~~  
1698 ~~Regulation Rule of the Federal Trade Commission regarding~~  
1699 ~~Disclosure Requirements and Prohibitions Concerning Franchising~~  
1700 ~~and Business Opportunity Ventures, the seller may file that~~  
1701 ~~disclosure statement in lieu of the document required pursuant~~  
1702 ~~to this section. Should the seller be required pursuant to 16~~  
1703 ~~C.F.R. to prepare any other documents to be presented to the~~  
1704 ~~prospective purchaser, those documents shall also be filed with~~  
1705 ~~the department.~~

1706 Section 41. Section 559.805, Florida Statutes, is repealed.

1707 Section 42. Subsection (2) of section 559.807, Florida  
1708 Statutes, is repealed.

1709 Section 43. Present subsections (3) through (7) of section  
1710 559.813, Florida Statutes, are redesignated as subsections (2)  
1711 through (6), respectively, and present subsections (2), (5), and

15-00464A-13

20131040\_\_

1712 (8) of that section are amended, to read:

1713 559.813 Remedies; enforcement.—

1714 ~~(2) (a) The department may enter an order imposing one or~~  
1715 ~~more of the penalties set forth in paragraph (b) if the~~  
1716 ~~department finds that a seller or any of the seller's principal~~  
1717 ~~officers or agents:~~

1718 1. ~~Violated or is operating in violation of any of the~~  
1719 ~~provisions of this part or of the rules adopted or orders issued~~  
1720 ~~thereunder;~~

1721 2. ~~Made a material false statement in any application,~~  
1722 ~~document, or record required to be submitted or retained under~~  
1723 ~~this part;~~

1724 3. ~~Refused or failed, after notice, to produce any document~~  
1725 ~~or record or disclose any information required to be produced or~~  
1726 ~~disclosed under this part or the rules of the department;~~

1727 4. ~~Made a material false statement in response to any~~  
1728 ~~request or investigation by the department, the Department of~~  
1729 ~~Legal Affairs, or the state attorney; or~~

1730 5. ~~Has intentionally defrauded the public through dishonest~~  
1731 ~~or deceptive means.~~

1732 ~~(b) Upon a finding as set forth in paragraph (a), the~~  
1733 ~~department may enter an order doing one or more of the~~  
1734 ~~following:~~

1735 1. ~~Issuing a notice of noncompliance pursuant to s.~~  
1736 ~~120.695.~~

1737 2. ~~Imposing an administrative fine not to exceed \$5,000 per~~  
1738 ~~violation for each act which constitutes a violation of this~~  
1739 ~~part or a rule or order.~~

1740 3. ~~Directing that the seller or its principal officers or~~

15-00464A-13

20131040\_\_

1741 ~~agents cease and desist specified activities.~~

1742 ~~4. Refusing to issue or revoking or suspending an~~  
1743 ~~advertisement identification number.~~

1744 ~~5. Placing the registrant on probation for a period of~~  
1745 ~~time, subject to such conditions as the department may specify.~~

1746 ~~(c) The administrative proceedings which could result in~~  
1747 ~~the entry of an order imposing any of the penalties specified in~~  
1748 ~~paragraph (b) shall be conducted in accordance with chapter 120.~~

1749 ~~(4)~~(5) The Department of Legal Affairs, ~~the Department of~~  
1750 ~~Agriculture and Consumer Services,~~ or the state attorney, if a  
1751 violation of this part occurs in her or his judicial circuit, is  
1752 are the enforcing authority ~~authorities~~ for purposes of this  
1753 part, and ~~they~~ may bring civil actions in circuit court for  
1754 temporary or permanent injunctive relief and may seek other  
1755 appropriate civil relief, including, but not limited to, a civil  
1756 penalty not to exceed \$5,000 for each violation, restitution and  
1757 damages for injured purchasers of business opportunities, and  
1758 court costs and reasonable attorney ~~attorney's~~ fees.

1759 ~~(8) The department has the authority to adopt rules~~  
1760 ~~pursuant to chapter 120 to implement this part.~~

1761 Section 44. Section 559.815, Florida Statutes, is amended  
1762 to read:

1763 559.815 Penalties.—A ~~Any~~ person who ~~fails to file with the~~  
1764 ~~department as required by s. 559.805 or who~~ commits an act  
1765 described in s. 559.809 is guilty of a felony of the third  
1766 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1767 775.084.

1768 Section 45. Subsection (1) of section 559.9221, Florida  
1769 Statutes, is amended to read:

15-00464A-13

20131040

1770 559.9221 Motor Vehicle Repair Advisory Council.—The Motor  
 1771 Vehicle Repair Advisory Council is created to advise and assist  
 1772 the department in carrying out this part.

1773 (1) The membership of the council may not exceed 9 ~~11~~  
 1774 members appointed by the Commissioner of Agriculture.

1775 (a) Six ~~Eight~~ industry members of the council must be  
 1776 chosen from individuals already engaged in the motor vehicle  
 1777 repair business who are eligible to be registered under this  
 1778 part. The professional members of this council must be licensed  
 1779 under this part. The commissioner shall select one industry  
 1780 member from each of the following categories:

- 1781 1. Independent automotive mechanics shops.
- 1782 2. Franchise or company-owned automotive mechanics shops.
- 1783 3. Automotive Independent ~~automotive~~ collision shops.
- 1784 ~~4. Franchise or company-owned automotive collision shops.~~
- 1785 ~~4.5. Tire dealers~~ Independent tire dealer.
- 1786 ~~6. Franchise or company-owned tire dealer.~~
- 1787 ~~5.7.~~ Independent motor vehicle dealers ~~dealer~~ licensed  
 1788 under s. 320.27.

1789 ~~6.8.~~ Franchise motor vehicle dealers ~~dealer~~ licensed under  
 1790 s. 320.27.

1791 (b) One member of the council may be chosen from persons  
 1792 already engaged in motor vehicle repair service.

1793 (c) Two consumer members of the council must be residents  
 1794 of this state and may ~~must~~ not be connected with the motor  
 1795 vehicle repair business.

1796 (d) As terms of the members expire, the commissioner shall  
 1797 appoint successors for terms of 4 years. Members ~~shall~~ serve  
 1798 from the time of their appointment until their successors are

15-00464A-13

20131040\_\_

1799  
1800  
1801  
1802  
1803  
1804  
1805  
1806  
1807  
1808  
1809  
1810  
1811  
1812  
1813  
1814  
1815  
1816  
1817  
1818  
1819  
1820  
1821  
1822  
1823  
1824  
1825  
1826  
1827

appointed.

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

616.242 Safety standards for amusement rides.—

(9) INSURANCE REQUIREMENTS.—

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

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

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

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

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

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

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

Section 48. This act shall take effect July 1, 2013.