

By Senator Detert

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1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending ss. 14.26, 20.14, 213.053,
4 320.275, and 366.85, F.S.; renaming the Division of
5 Consumer Services within the department as the
6 "Division of Consumer Protection"; amending s.
7 493.6105, F.S.; revising the information that a person
8 must supply in an application for licensure as a
9 private investigator, private security service, or
10 repossession service; deleting a requirement that
11 certain applicants supply photographs along with an
12 application; revising the certificates that a person
13 applying for a class "K" firearms instructor's license
14 must supply along with an application for the license;
15 making technical and grammatical changes; amending s.
16 493.6106, F.S.; providing that applicants for certain
17 licenses as a private investigator, private security
18 service or repossession service must meet certain
19 citizenship or immigration requirements and not be
20 prohibited by law from purchasing a firearm; making
21 grammatical and technical changes; amending s.
22 493.6107, F.S.; authorizing a Class "M," Class "G,"
23 and Class "K" licensee or applicant to pay examination
24 fees and license fees by personal check or, if
25 authorized by the department, by electronic funds
26 transfer; amending s. 493.6108, F.S.; requiring the
27 department to investigate the mental fitness of an
28 applicant of a Class "K" firearms instructor license;
29 amending s. 493.6111, F.S.; providing that Class "K"

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firearms instructor licenses are valid for 3 years;
requiring an applicant for a recovery school or
security officer school to receive approval from the
department before operating under a fictitious name;
making technical and grammatical changes; amending s.
493.6113, F.S.; deleting a requirement that Class "A"
private investigative agency licensees and Class "R"
recovery agency licensees provide evidence of certain
insurance coverage with an application to renew a
license; requiring a Class "K" firearms instructor
licensee to submit proof of certification to provide
firearms instruction; amending s. 493.6115, F.S.;
conforming cross-references to changes made by the
act; making technical and grammatical changes;
amending s. 493.6118, F.S.; authorizing the department
to take disciplinary action against a Class "G"
statewide firearms licensee or applicant or a Class
"K" firearms instructor licensee or applicant if the
person is prohibited from purchasing a firearm by law;
amending s. 493.6121, F.S.; deleting a provision
authorizing the department to have access to certain
criminal history information of a purchaser of a
firearm; amending s. 493.6202, F.S.; authorizing a
Class "A," Class "AA," Class "MA," Class "C," or Class
"CC" licensee or applicant to pay examination fees and
license fees by personal check or, if authorized by
the department, by electronic funds transfer; amending
s. 493.6203, F.S.; providing that experience as a
bodyguard does not qualify as experience or training

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for purposes of a Class "MA" or Class "C" license;
requiring an initial applicant for a Class "CC"
license to complete specified training courses; making
technical and grammatical changes and conforming a
cross-reference; amending s. 493.6302, F.S.;
authorizing a Class "B," Class "BB," Class "MB," Class
"D," Class "DS," or Class "DI" licensee or applicant
to pay examination fees and license fees by personal
check or, if authorized by the department, by
electronic funds transfer; amending s. 493.6303, F.S.;
requiring an applicant for an initial Class "D"
license to complete specified training courses; making
technical and grammatical changes; amending s.
493.6304, F.S.; requiring an application for a
security officer school or training facility to be
verified under oath; amending ss. 493.6401 and
493.6402, F.S.; renaming reposessors as "recovery
agents"; authorizing a Class "R," Class "RR," Class
"MR," Class "E," Class "EE," Class "RS," or Class "RI"
licensee or applicant to pay examination fees and
license fees by personal check or, if authorized by
the department, by electronic funds transfer; amending
s. 493.6406, F.S.; requiring recovery agent schools or
instructors to be licensed by the department to offer
training to Class "E" licensees and applicants;
amending ss. 496.404, 496.411, and 496.412, F.S.;
renaming the Division of Consumer Services as the
"Division of Consumer Protection"; amending s.
496.419, F.S.; deleting authorization for the

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department to enter an order; amending s. 501.015,
F.S.; correcting a reference to a local business tax
receipt; amending s. 501.017, F.S.; specifying the
minimum type size for requiring certain disclosures in
contracts between a consumer and a health studio;
amending s. 501.145, F.S.; deleting a reference to the
department in the Bedding Label Act; amending s.
501.160, F.S.; deleting authorization for the
department to enforce certain prohibitions against
unconscionable practices during a declared state of
emergency; amending s. 501.605, F.S.; deleting a
requirement that a person supply his or her social
security number on an application as a commercial
telephone seller; amending s. 501.607, F.S.; deleting
a requirement that a person supply his or her social
security number on an application as a salesperson;
amending s. 539.001, F.S.; correcting a reference to a
local business tax receipt; amending s. 559.805, F.S.;
deleting a requirement that a seller of a business
opportunity provide the social security numbers of the
seller's agents to the department; amending s.
559.904, F.S.; correcting a reference to a local
business tax receipt; amending s. 570.544, F.S.;
renaming the Division of Consumer Services as the
"Division of Consumer Protection"; amending s.
681.102, F.S.; deleting a reference to the division in
the Motor Vehicle Warranty Enforcement Act; amending
ss. 681.103, 681.108, and 681.109, F.S.; transferring
certain responsibilities under the Lemon Law to the

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department from the Division of Consumer Services;
amending s. 681.1095, F.S.; transferring certain
responsibilities relating to the New Motor Vehicle
Arbitration Board to the department from the Division
of Consumer Services; authorizing the board to send
its decisions by any method providing a delivery
confirmation; authorizing the department to adopt
rules; amending s. 681.1096, F.S.; conforming a cross-
reference to changes made by the act; amending s.
681.112, F.S.; transferring certain responsibilities
relating to the Lemon Law to the department from the
Division of Consumer Services; amending s. 681.117,
F.S.; deleting a provision requiring the Department of
Legal Affairs to contract with the Division of
Consumer Services for services relating to dispute
settlement procedures and the New Motor Vehicle
Arbitration Board; amending s. 849.0915, F.S.;
renaming the Division of Consumer Services as the
"Division of Consumer Protection"; providing an
effective date.

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

Section 1. Subsection (4) of section 14.26, Florida
Statutes, is amended to read:

14.26 Citizen's Assistance Office.—

(4) The Citizen's Assistance Office shall refer consumer-
oriented complaints to the Division of Consumer Protection
~~Services~~ of the Department of Agriculture and Consumer Services.

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

20.14 Department of Agriculture and Consumer Services.—
There is created a Department of Agriculture and Consumer Services.

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

(e) Consumer Protection ~~Services~~.

Section 3. Paragraph (q) of subsection (8) of section 213.053, Florida Statutes, as amended by chapter 2010-280, Laws of Florida, is amended to read:

213.053 Confidentiality and information sharing.—

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

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

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

Section 4. Paragraphs (a) and (b) of subsection (2) of section 320.275, Florida Statutes, are amended to read:

320.275 Automobile Dealers Industry Advisory Board.—

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(2) MEMBERSHIP, TERMS, MEETINGS.—

(a) The board shall be composed of 12 members. The executive director of the Department of Highway Safety and Motor Vehicles shall appoint the members from names submitted by the entities for the designated categories the member will represent. The executive director shall appoint one representative of the Department of Highway Safety and Motor Vehicles, who must represent the Division of Motor Vehicles; two representatives of the independent motor vehicle industry as recommended by the Florida Independent Automobile Dealers Association; two representatives of the franchise motor vehicle industry as recommended by the Florida Automobile Dealers Association; one representative of the auction motor vehicle industry who is from an auction chain and is recommended by a group affiliated with the National Auto Auction Association; one representative of the auction motor vehicle industry who is from an independent auction and is recommended by a group affiliated with the National Auto Auction Association; one representative from the Department of Revenue; a Florida tax collector representative recommended by the Florida Tax Collectors Association; one representative from the Better Business Bureau; one representative from the Department of Agriculture and Consumer Services, who must represent the Division of Consumer Protection Services; and one representative of the insurance industry who writes motor vehicle dealer surety bonds.

(b)1. The executive director shall appoint the following initial members to 1-year terms: one representative from the motor vehicle auction industry who represents an auction chain, one representative from the independent motor vehicle industry,

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one representative from the franchise motor vehicle industry,
one representative from the Department of Revenue, one Florida
tax collector, and one representative from the Better Business
Bureau.

2. The executive director shall appoint the following
initial members to 2-year terms: one representative from the
motor vehicle auction industry who represents an independent
auction, one representative from the independent motor vehicle
industry, one representative from the franchise motor vehicle
industry, one representative from the Division of Consumer
Protection Services, one representative from the insurance
industry, and one representative from the Division of Motor
Vehicles.

3. As the initial terms expire, the executive director
shall appoint successors from the same designated category for
terms of 2 years. If renominated, a member may succeed himself
or herself.

4. The board shall appoint a chair and vice chair at its
initial meeting and every 2 years thereafter.

Section 5. Section 366.85, Florida Statutes, is amended to
read:

366.85 Responsibilities of Division of Consumer Protection
~~Services~~.—The Division of Consumer Protection Services of the
Department of Agriculture and Consumer Services ~~is~~ shall be the
agency responsible for consumer conciliatory conferences, if
such conferences are required pursuant to federal law. The
division shall also be the agency responsible for preparing
lists of sources for energy conservation products or services
and of financial institutions offering energy conservation

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loans, if such lists are required pursuant to federal law. Notwithstanding any provision of federal law to the contrary, the division shall not require any manufacturer's warranty exceeding 1 year in order for a source of conservation products or services to be included on the appropriate list. The lists shall be prepared for the service area of each utility and shall be furnished to each utility for distribution to its customers. The division shall update the lists on a systematic basis and shall remove from any list any person who has been disciplined by any state agency or who has otherwise exhibited a pattern of unsatisfactory work and any person who requests removal from such lists. The division may ~~is authorized to~~ adopt rules to implement the provisions of this section.

Section 6. Section 493.6105, Florida Statutes, is amended to read:

493.6105 Initial application for license.—

(1) Each individual, partner, or principal officer in a corporation, shall file with the department a complete application accompanied by an application fee not to exceed \$60, except that the applicant for a Class "D" or Class "G" license is ~~shall~~ not be required to submit an application fee. The application fee is ~~shall~~ not be refundable.

(a) The application submitted by any individual, partner, or corporate officer must ~~shall~~ be approved by the department before the ~~prior to that~~ individual, partner, or corporate officer assumes ~~assuming~~ his or her duties.

(b) Individuals who invest in the ownership of a licensed agency, but do not participate in, direct, or control the operations of the agency are ~~shall~~ not be required to file an

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application.

(2) Each application must ~~shall~~ be signed and verified by the individual under oath as provided in s. 92.525 ~~and shall be notarized~~.

(3) The application must ~~shall~~ contain the following information concerning the individual signing the application ~~same~~:

(a) Name and any aliases.

(b) Age and date of birth.

(c) Place of birth.

(d) Social security number or alien registration number, whichever is applicable.

(e) Current ~~Present~~ residence address and mailing address ~~his or her residence addresses within the 5 years immediately preceding the submission of the application.~~

~~(f) Occupations held presently and within the 5 years immediately preceding the submission of the application.~~

~~(f)(g)~~ A statement of all criminal convictions, findings of guilt, and pleas of guilty or nolo contendere, regardless of adjudication of guilt. An applicant for a Class "G" or Class "K" license who is younger than 24 years of age shall also include a statement regarding any finding of having committed a delinquent act in any state, territory, or country which would be a felony if committed by an adult and which is punishable by imprisonment for a term exceeding 1 year.

(g) One passport-type color photograph taken within the 6 months immediately preceding submission of the application.

(h) A statement whether he or she has ever been adjudicated incompetent under chapter 744.

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291 (i) A statement whether he or she has ever been committed
292 to a mental institution under chapter 394.

293 (j) A full set of fingerprints on a card provided by the
294 department and a fingerprint fee to be established by rule of
295 the department based upon costs determined by state and federal
296 agency charges and department processing costs. An applicant who
297 has, within the immediately preceding 6 months, submitted a
298 fingerprint card and fee for licensing purposes under this
299 chapter is ~~shall~~ not be required to submit another fingerprint
300 card or fee.

301 (k) A personal inquiry waiver that ~~which~~ allows the
302 department to conduct necessary investigations to satisfy the
303 requirements of this chapter.

304 (l) Such further facts as may be required by the department
305 to show that the individual signing the application is of good
306 moral character and qualified by experience and training to
307 satisfy the requirements of this chapter.

308 ~~(4) In addition to the application requirements outlined in~~
309 ~~subsection (3), the applicant for a Class "C," Class "CC," Class~~
310 ~~"E," Class "EE," or Class "G" license shall submit two color~~
311 ~~photographs taken within the 6 months immediately preceding the~~
312 ~~submission of the application, which meet specifications~~
313 ~~prescribed by rule of the department. All other applicants shall~~
314 ~~submit one photograph taken within the 6 months immediately~~
315 ~~preceding the submission of the application.~~

316 ~~(4)(5)~~ In addition to the application requirements outlined
317 under subsection (3), the applicant for a Class "C," Class "E,"
318 Class "M," Class "MA," Class "MB," or Class "MR" license must
319 ~~shall~~ include a statement on a form provided by the department

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of the experience that ~~which~~ he or she believes will qualify him or her for such license.

~~(5)-(6)~~ In addition to the requirements outlined in subsection (3), an applicant for a Class "G" license must ~~shall~~ satisfy minimum training criteria for firearms established by rule of the department, which training criteria includes ~~shall include~~, but is not limited to, 28 hours of range and classroom training taught and administered by a Class "K" licensee; however, no more than 8 hours of such training shall consist of range training. If the applicant submits ~~can show~~ proof that he or she is an active law enforcement officer currently certified under the Criminal Justice Standards and Training Commission or has completed the training required for that certification within the last 12 months, or if the applicant submits one of the certificates specified in paragraph (6)(a) ~~(7)(a)~~, the department may waive the foregoing firearms training requirement.

~~(6)-(7)~~ In addition to the requirements under subsection (3), an applicant for a Class "K" license must ~~shall~~:

(a) Submit one of the following ~~certificates~~:

1. The Florida Criminal Justice Standards and Training Commission Instructor Firearms Instructor's ~~Instructor's~~ Certificate and written confirmation by the commission that the applicant possesses an active firearms certification.

~~2. The National Rifle Association Police Firearms Instructor's Certificate.~~

~~2.3.~~ The National Rifle Association Private Security Firearm Instructor ~~Firearms Instructor's~~ Certificate.

~~3.4.~~ A firearms instructor ~~instructor's~~ certificate issued

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349 ~~by from a federal law enforcement agency, state, county, or~~
350 ~~municipal police academy in this state recognized as such by the~~
351 ~~Criminal Justice Standards and Training Commission or by the~~
352 ~~Department of Education.~~

353 (b) Pay the fee for and pass an examination administered by
354 the department which shall be based upon, but is not necessarily
355 limited to, a firearms instruction manual provided by the
356 department.

357 ~~(7)-(8)~~ In addition to the application requirements for
358 individuals, partners, or officers outlined under subsection
359 (3), the application for an agency license must ~~shall~~ contain
360 the following information:

361 (a) The proposed name under which the agency intends to
362 operate.

363 (b) The street address, mailing address, and telephone
364 numbers of the principal location at which business is to be
365 conducted in this state.

366 (c) The street address, mailing address, and telephone
367 numbers of all branch offices within this state.

368 (d) The names and titles of all partners or, in the case of
369 a corporation, the names and titles of its principal officers.

370 ~~(8)-(9)~~ Upon submission of a complete application, a Class
371 "CC," Class "C," Class "D," Class "EE," Class "E," Class "M,"
372 Class "MA," Class "MB," or Class "MR" applicant may commence
373 employment or appropriate duties for a licensed agency or branch
374 office. However, the Class "C" or Class "E" applicant must work
375 under the direction and control of a sponsoring licensee while
376 his or her application is being processed. If the department
377 denies application for licensure, the employment of the

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applicant must be terminated immediately, unless he or she performs only unregulated duties.

Section 7. Paragraph (f) of subsection (1) and paragraph (a) of subsection (2) of section 493.6106, Florida Statutes, are amended, and paragraph (g) is added to subsection (1) of that section, to read:

493.6106 License requirements; posting.—

(1) Each individual licensed by the department must:

(f) Be a citizen or permanent legal resident alien of the United States or have appropriate ~~been granted~~ authorization issued to seek employment in this country by the United States Bureau of Citizenship and Immigration Services of the United States Department of Homeland Security.

1. An applicant for a Class "C," Class "CC," Class "D," Class "DI," Class "E," Class "EE," Class "M," Class "MA," Class "MB," Class "MR," or Class "RI" license who is not a United States citizen must submit proof of current employment authorization issued by the United States Citizenship and Immigration Services or proof that she or he is deemed a permanent legal resident alien by the United States Citizenship and Immigration Services.

2. An applicant for a Class "G" or Class "K" license who is not a United States citizen must submit proof that she or he is deemed a permanent legal resident alien by the United States Citizenship and Immigration Services, together with additional documentation establishing that she or he has resided in the state of residence shown on the application for at least 90 consecutive days before the date that the application is submitted.

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3. An applicant for an agency or school license who is not a United States citizen or permanent legal resident alien must submit documentation issued by the United States Citizenship and Immigration Services stating that she or he is lawfully in the United States and is authorized to own and operate the type of agency or school for which she or he is applying. An employment authorization card issued by the United States Citizenship and Immigration Services is not sufficient documentation.

(g) Not be prohibited from purchasing or possessing a firearm by state or federal law if the individual is applying for a Class "G" license or a Class "K" license.

(2) Each agency shall have a minimum of one physical location within this state from which the normal business of the agency is conducted, and this location shall be considered the primary office for that agency in this state.

(a) If an agency or branch office desires to change the physical location of the business, as it appears on the ~~agency~~ license, the department must be notified within 10 days of the change, and, except upon renewal, the fee prescribed in s. 493.6107 must be submitted for each license requiring revision. Each license requiring revision must be returned with such notification.

Section 8. Subsection (3) of section 493.6107, Florida Statutes, is amended to read:

493.6107 Fees.—

(3) The fees set forth in this section must be paid by ~~certified~~ check or money order or, at the discretion of the department, by electronic funds transfer ~~agency check~~ at the time the application is approved, except that the applicant for

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a Class "G" or Class "M" license must pay the license fee at the time the application is made. If a license is revoked or denied or if the application is withdrawn, the license fee is nonrefundable ~~shall not be refunded~~.

Section 9. Subsections (1) and (3) of section 493.6108, Florida Statutes, are amended to read:

493.6108 Investigation of applicants by Department of Agriculture and Consumer Services.—

(1) Except as otherwise provided, ~~prior to the issuance of a license under this chapter,~~ the department must investigate an ~~shall make an investigation of the~~ applicant for a license under this chapter before it may issue the license. The investigation must ~~shall~~ include:

(a)1. An examination of fingerprint records and police records. ~~If When~~ a criminal history record check analysis ~~analysis~~ of any applicant under this chapter is performed by means of fingerprint card identification, the time limitations prescribed by s. 120.60(1) shall be tolled during the time the applicant's fingerprint card is under review by the Department of Law Enforcement or the United States Department of Justice, Federal Bureau of Investigation.

2. If a legible set of fingerprints, as determined by the Department of Law Enforcement or the Federal Bureau of Investigation, cannot be obtained after two attempts, the Department of Agriculture and Consumer Services may determine the applicant's eligibility based upon a criminal history record check under the applicant's name conducted by the Department of Law Enforcement if the ~~and the Federal Bureau of Investigation~~. ~~A set of fingerprints~~ are taken by a law enforcement agency or

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the department and the applicant submits a written statement signed by the fingerprint technician or a licensed physician stating that there is a physical condition that precludes obtaining a legible set of fingerprints or that the fingerprints taken are the best that can be obtained ~~is sufficient to meet this requirement.~~

(b) An inquiry to determine if the applicant has been adjudicated incompetent under chapter 744 or has been committed to a mental institution under chapter 394.

(c) Such other investigation of the individual as the department may deem necessary.

(3) The department must ~~shall~~ also investigate the mental history and current mental and emotional fitness of any Class "G" or Class "K" applicant, and may deny a Class "G" or Class "K" license to anyone who has a history of mental illness or drug or alcohol abuse.

Section 10. Subsections (2) and (4) of section 493.6111, Florida Statutes, are amended to read:

493.6111 License; contents; identification card.—

(2) Licenses shall be valid for a period of 2 years, except for Class "K" firearms instructor licenses and Class "A," Class "B," Class "AB," Class "R," and branch agency licenses, which shall be valid for a period of 3 years.

(4) Notwithstanding the existence of a valid Florida corporate registration, an ~~no~~ agency or school licensee may not conduct activities regulated under this chapter under any fictitious name without prior written authorization from the department to use that name in the conduct of activities regulated under this chapter. The department may not authorize

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the use of a name that ~~which~~ is so similar to that of a public officer or agency, or of that used by another licensee, that the public may be confused or misled thereby. The authorization for the use of a fictitious name must ~~shall~~ require, as a condition precedent to the use of such name, the filing of a certificate of engaging in business under a fictitious name under s. 865.09. ~~A No licensee may not shall be permitted to~~ conduct business under more than one name except as separately licensed nor shall the license be valid to protect any licensee who is engaged in the business under any name other than that specified in the license. An agency desiring to change its licensed name must ~~shall~~ notify the department and, except upon renewal, pay a fee not to exceed \$30 for each license requiring revision including those of all licensed employees except Class "D" or Class "G" licensees. Upon the return of such licenses to the department, revised licenses shall be provided.

Section 11. Subsections (2) and (3) of section 493.6113, Florida Statutes, are amended to read:

493.6113 Renewal application for licensure.—

(2) At least ~~No less than~~ 90 days before ~~prior to~~ the expiration date of the license, the department shall mail a written notice to the last known mailing ~~residence~~ address of the licensee ~~for individual licensees and to the last known agency address for agencies~~.

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

(a) Each Class "B" ~~Class "A," Class "B," or Class "R"~~

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licensee shall additionally submit on a form prescribed by the department a certification of insurance ~~that~~ which evidences that the licensee maintains coverage as required under s. 493.6110.

(b) Each Class "G" licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms recertification training taught by a Class "K" licensee and has complied with such other health and training requirements which the department may adopt by rule. If proof of a minimum of 4 hours of annual firearms recertification training cannot be provided, the renewal applicant shall complete the minimum number of hours of range and classroom training required at the time of initial licensure.

(c) Each Class "DS" or Class "RS" licensee shall additionally submit the current curriculum, examination, and list of instructors.

(d) Each Class "K" firearms instructor licensee shall additionally submit one of the certificates specified under s. 493.6105(6) as proof that he or she remains certified to provide firearms instruction.

Section 12. Subsection (8), paragraph (d) of subsection (12), and subsection (16) of section 493.6115, Florida Statutes, are amended to read:

493.6115 Weapons and firearms.—

(8) A Class "G" applicant must satisfy the minimum training criteria as set forth in s. 493.6105(5) ~~493.6105(6)~~ and as established by rule of the department.

(12) The department may issue a temporary Class "G"

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license, on a case-by-case basis, if:

(d) The applicant has received approval from the department subsequent to its conduct of a criminal history record check as authorized in s. 493.6108(1) ~~493.6121(6)~~.

(16) If the criminal history record check program referenced in s. 493.6108(1) ~~493.6121(6)~~ is inoperable, the department may issue a temporary "G" license on a case-by-case basis, provided that the applicant has met all statutory requirements for the issuance of a temporary "G" license as specified in subsection (12), excepting the criminal history record check stipulated there; provided, that the department requires that the licensed employer of the applicant conduct a criminal history record check of the applicant pursuant to standards set forth in rule by the department, and provide to the department an affidavit containing such information and statements as required by the department, including a statement that the criminal history record check did not indicate the existence of any criminal history that would prohibit licensure. Failure to properly conduct such a check, or knowingly providing incorrect or misleading information or statements in the affidavit constitutes ~~shall constitute~~ grounds for disciplinary action against the licensed agency, including revocation of license.

Section 13. Present paragraph (u) of subsection (1) of section 493.6118, Florida Statutes, is redesignated as paragraph (v), and a new paragraph (u) is added to that subsection to read:

493.6118 Grounds for disciplinary action.—

(1) The following constitute grounds for which disciplinary

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581 action specified in subsection (2) may be taken by the
582 department against any licensee, agency, or applicant regulated
583 by this chapter, or any unlicensed person engaged in activities
584 regulated under this chapter.

585 (u) For a Class "G" or a Class "K" applicant or licensee,
586 being prohibited from purchasing or possessing a firearm by
587 state or federal law.

588 Section 14. Present subsections (7) and (8) of section
589 493.6121, Florida Statutes, are renumbered as subsections (6)
590 and (7), respectively, and subsection (6) of that section is
591 amended, to read:

592 493.6121 Enforcement; investigation.—

593 ~~(6) The department shall be provided access to the program~~
594 ~~that is operated by the Department of Law Enforcement, pursuant~~
595 ~~to s. 790.065, for providing criminal history record information~~
596 ~~to licensed gun dealers, manufacturers, and exporters. The~~
597 ~~department may make inquiries, and shall receive responses in~~
598 ~~the same fashion as provided under s. 790.065. The department~~
599 ~~shall be responsible for payment to the Department of Law~~
600 ~~Enforcement of the same fees as charged to others afforded~~
601 ~~access to the program.~~

602 Section 15. Subsection (3) of section 493.6202, Florida
603 Statutes, is amended to read:

604 493.6202 Fees.—

605 (3) The fees set forth in this section must be paid by
606 ~~certified~~ check or money order or, at the discretion of the
607 department, by electronic funds transfer ~~agency check~~ at the
608 time the application is approved, except that the applicant for
609 a Class "G," Class "C," Class "CC," Class "M," or Class "MA"

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license must pay the license fee at the time the application is made. If a license is revoked or denied or if the application is withdrawn, the license fee is nonrefundable ~~shall not be refunded~~.

Section 16. Subsections (2), (4), and (6) of section 493.6203, Florida Statutes, are amended to read:

493.6203 License requirements.—In addition to the license requirements set forth elsewhere in this chapter, each individual or agency shall comply with the following additional requirements:

(2) An applicant for a Class "MA" license must ~~shall~~ have 2 years of lawfully gained, verifiable, full-time experience, or training in:

(a) Private investigative work or related fields of work that provided equivalent experience or training;

(b) Work as a Class "CC" licensed intern;

(c) Any combination of paragraphs (a) and (b);

(d) Experience described in paragraph (a) for 1 year and experience described in paragraph (e) for 1 year;

(e) No more than 1 year using:

1. College coursework related to criminal justice, criminology, or law enforcement administration; or

2. Successfully completed law enforcement-related training received from any federal, state, county, or municipal agency; or

(f) Experience described in paragraph (a) for 1 year and work in a managerial or supervisory capacity for 1 year.

However, experience in performing bodyguard services is not

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creditable toward the requirements of this subsection.

(4) An applicant for a Class "C" license shall have 2 years of lawfully gained, verifiable, full-time experience, or training in one, or a combination of more than one, of the following:

(a) Private investigative work or related fields of work that provided equivalent experience or training.

(b) College coursework related to criminal justice, criminology, or law enforcement administration, or successful completion of any law enforcement-related training received from any federal, state, county, or municipal agency, except that no more than 1 year may be used from this category.

(c) Work as a Class "CC" licensed intern.

However, experience in performing bodyguard services is not creditable toward the requirements of this subsection.

(6) (a) A Class "CC" licensee must ~~shall~~ serve an internship under the direction and control of a designated sponsor, who is a Class "C," Class "MA," or Class "M" licensee.

(b) Effective January 1, 2012 ~~September 1, 2008~~, before submission of an application to the department, the an applicant for a Class "CC" license must have completed a minimum of 40 at least 24 hours of professional training a 40-hour course pertaining to general investigative techniques and this chapter, which course is offered by a state university or by a school, community college, college, or university under the purview of the Department of Education, and the applicant must pass an examination. The training must be provided in two parts, one 24-hour course and one 16-hour course. The certificate evidencing

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668 satisfactory completion of the 40 ~~at least 24~~ hours of
669 professional training ~~a 40-hour course~~ must be submitted with
670 the application for a Class "CC" license. ~~The remaining 16 hours~~
671 ~~must be completed and an examination passed within 180 days. If~~
672 ~~documentation of completion of the required training is not~~
673 ~~submitted within the specified timeframe, the individual's~~
674 ~~license is automatically suspended or his or her authority to~~
675 ~~work as a Class "CC" pursuant to s. 493.6105(9) is rescinded~~
676 ~~until such time as proof of certificate of completion is~~
677 ~~provided to the department.~~ The training ~~course~~ specified in
678 this paragraph may be provided by face-to-face presentation,
679 online technology, or a home study course in accordance with
680 rules and procedures of the Department of Education. The
681 administrator of the examination must verify the identity of
682 each applicant taking the examination.

683 1. Upon an applicant's successful completion of each part
684 of the approved training ~~course~~ and passage of any required
685 examination, the school, community college, college, or
686 university shall issue a certificate of completion to the
687 applicant. The certificates must be on a form established by
688 rule of the department.

689 2. The department shall establish by rule the general
690 content of the professional training ~~course~~ and the examination
691 criteria.

692 3. If the license of an applicant for relicensure is ~~has~~
693 ~~been~~ invalid for more than 1 year, the applicant must complete
694 the required training and pass any required examination.

695 (c) An individual who submits an application for a Class
696 "CC" license on or after September 1, 2008, through December 31,

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2011, who has not completed the 16-hour course must submit proof of successful completion of the course within 180 days after the date the application is submitted. If documentation of completion of the required training is not submitted by that date, the individual's license shall be automatically suspended until proof of the required training is submitted to the department. An individual licensed on or before August 31, 2008, is not required to complete additional training hours in order to renew an active license beyond the total required hours, and the timeframe for completion in effect at the time he or she was licensed applies.

Section 17. Subsection (3) of section 493.6302, Florida Statutes, is amended to read:

493.6302 Fees.—

(3) The fees set forth in this section must be paid by ~~certified~~ check or money order or, at the discretion of the department, by electronic funds transfer ~~agency check~~ at the time the application is approved, except that the applicant for a Class "D," Class "G," Class "M," or Class "MB" license must pay the license fee at the time the application is made. If a license is revoked or denied or if the application is withdrawn, the license fee is nonrefundable ~~shall not be refunded~~.

Section 18. Subsection (4) of section 493.6303, Florida Statutes, is amended to read:

493.6303 License requirements.—In addition to the license requirements set forth elsewhere in this chapter, each individual or agency must ~~shall~~ comply with the following additional requirements:

(4) (a) Effective January 1, 2012, an applicant for a Class

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726 "D" license must submit proof of successful completion of
727 ~~complete~~ a minimum of 40 hours of professional training at a
728 school or training facility licensed by the department. The
729 training must be provided in two parts, one 24-hour course and
730 one 16-hour course. The department shall by rule establish the
731 general content and number of hours of each subject area to be
732 taught.

733 (b) An individual who submits an application for a Class
734 "D" license on or after January 1, 2007, through December 31,
735 2011, who has not completed the 16-hour course must submit proof
736 of successful completion of the course within 180 days after the
737 date the application is submitted. If documentation of
738 completion of the required training is not submitted by that
739 date, the individual's license shall be automatically suspended
740 until proof of the required training is submitted to the
741 department. A person licensed before January 1, 2007, is not
742 required to complete additional training hours in order to renew
743 an active license beyond the total required hours, and the
744 timeframe for completion in effect at the time he or she was
745 licensed applies. An applicant may fulfill the training
746 ~~requirement prescribed in paragraph (a) by submitting proof of:~~

747 1. ~~Successful completion of the total number of required~~
748 ~~hours of training before initial application for a Class "D"~~
749 ~~license; or~~

750 2. ~~Successful completion of 24 hours of training before~~
751 ~~initial application for a Class "D" license and successful~~
752 ~~completion of the remaining 16 hours of training within 180 days~~
753 ~~after the date that the application is submitted. If~~
754 ~~documentation of completion of the required training is not~~

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submitted within the specified timeframe, the individual's license is automatically suspended until such time as proof of the required training is provided to the department.

(c) An individual ~~However, any person~~ whose license is suspended or has been revoked, suspended pursuant to paragraph (b) subparagraph 2., or is expired for at least 1 year, ~~or~~ longer is considered, upon reapplication for a license, an initial applicant and must submit proof of successful completion of 40 hours of professional training at a school or training facility licensed by the department as provided ~~prescribed~~ in paragraph (a) before a license is ~~will be~~ issued. Any person whose license was issued before January 1, 2007, and whose license has been expired for less than 1 year must, upon reapplication for a license, submit documentation of completion of the total number of hours of training prescribed by law at the time her or his initial license was issued before another license will be issued. This subsection does not require an individual licensed before January 1, 2007, to complete additional training hours in order to renew an active license, beyond the required total amount of training within the timeframe prescribed by law at the time she or he was licensed.

Section 19. Subsection (2) of section 493.6304, Florida Statutes, is amended to read:

493.6304 Security officer school or training facility.—

(2) The application shall be signed and verified by the applicant under oath as provided in s. 92.525 ~~notarized~~ and must ~~shall~~ contain, at a minimum, the following information:

(a) The name and address of the school or training facility and, if the applicant is an individual, her or his name,

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address, and social security or alien registration number.

(b) The street address of the place at which the training is to be conducted.

(c) A copy of the training curriculum and final examination to be administered.

Section 20. Subsections (7) and (8) of section 493.6401, Florida Statutes, are amended to read:

493.6401 Classes of licenses.—

(7) Any person who operates a recovery agent ~~repossessor~~ school or training facility or who conducts an Internet-based training course or a correspondence training course must have a Class "RS" license.

(8) Any individual who teaches or instructs at a Class "RS" recovery agent ~~repossessor~~ school or training facility shall have a Class "RI" license.

Section 21. Subsections (1) and (3) of section 493.6402, Florida Statutes, are amended to read:

493.6402 Fees.—

(1) The department shall establish by rule biennial license fees that ~~which~~ shall not exceed the following:

(a) Class "R" license—recovery agency: \$450.

(b) Class "RR" license—branch office: \$125.

(c) Class "MR" license—recovery agency manager: \$75.

(d) Class "E" license—recovery agent: \$75.

(e) Class "EE" license—recovery agent intern: \$60.

(f) Class "RS" license—recovery agent ~~license—repossessor~~ school or training facility: \$60.

(g) Class "RI" license—recovery agent ~~license—repossessor~~ school or training facility instructor: \$60.

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(3) The fees set forth in this section must be paid by ~~certified~~ check or money order, or, at the discretion of the department, by or electronic funds transfer ~~agency check~~ at the time the application is approved, except that the applicant for a Class "E," Class "EE," or Class "MR" license must pay the license fee at the time the application is made. If a license is revoked or denied, or if an application is withdrawn, the license fee is nonrefundable ~~shall not be refunded~~.

Section 22. Section 493.6406, Florida Statutes, is amended to read:

493.6406 Recovery agent ~~Repossession services~~ school or training facility.—

(1) Any school, training facility, or instructor who offers the training outlined in s. 493.6403(2) for Class "E" or Class "EE" applicants shall, before licensure of such school, training facility, or instructor, file with the department an application accompanied by an application fee in an amount to be determined by rule, not to exceed \$60. The fee shall not be refundable. This training may be offered as face-to-face training, Internet-based training, or correspondence training.

(2) The application ~~must~~ shall be signed and verified by the applicant under oath as provided in s. 92.525 ~~notarized~~ and shall contain, at a minimum, the following information:

(a) The name and address of the school or training facility and, if the applicant is an individual, his or her name, address, and social security or alien registration number.

(b) The street address of the place at which the training is to be conducted or the street address of the Class "RS" school offering Internet-based or correspondence training.

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(c) A copy of the training curriculum and final examination to be administered.

(3) The department shall adopt rules establishing the criteria for approval of schools, training facilities, and instructors.

Section 23. Subsection (7) of section 496.404, Florida Statutes, is amended to read:

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

(7) "Division" means the Division of Consumer Protection ~~services~~ of the Department of Agriculture and Consumer Services.

Section 24. Subsection (3) of section 496.411, Florida Statutes, is amended to read:

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

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

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

The statement must include a toll-free number for the division which ~~that~~ can be used to obtain the registration information.

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When the solicitation consists of more than one piece, the statement must be displayed prominently in the solicitation materials.

Section 25. Paragraph (c) of subsection (1) of section 496.412, Florida Statutes, is amended to read:

496.412 Disclosure requirements and duties of professional solicitors.—

(1) A professional solicitor must comply with and be responsible for complying or causing compliance with the following disclosures:

(c) In addition to the information required by paragraph (a), any written confirmation, receipt, or reminder of contribution made pursuant to an oral solicitation and any written solicitation shall conspicuously state in capital letters:

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

The statement must include a toll-free number for the division which ~~that~~ can be used to obtain the registration information. When the solicitation consists of more than one piece, the statement must be displayed prominently in the solicitation materials.

Section 26. Subsection (5) of section 496.419, Florida

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Statutes, is amended to read:

496.419 Powers of the department.—

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

(a) Issue ~~Issuing~~ a notice of noncompliance pursuant to s. 120.695;

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

(c) Refuse ~~Refusing~~ to register or revoke ~~canceling~~ or suspend ~~suspending~~ a registration;

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

(e) Revoke ~~Canceling~~ an exemption granted under s. 496.406; or ~~and~~

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

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

Section 27. Subsection (7) of section 501.015, Florida Statutes, is amended to read:

501.015 Health studios; registration requirements and

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fees.—Each health studio shall:

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

Section 28. Subsection (1) of section 501.017, Florida Statutes, is amended to read:

501.017 Health studios; contracts.—

(1) Every contract for the sale of future health studio services which is paid for in advance or which the buyer agrees to pay for in future installment payments must ~~shall~~ be in writing and must ~~shall~~ contain, contractual provisions to the contrary notwithstanding, in immediate proximity to the space reserved in the contract for the signature of the buyer, and in at least 10-point boldfaced type, language substantially equivalent to the following:

(a) A provision for the penalty-free cancellation of the contract within 3 days, exclusive of holidays and weekends, of its making, upon the mailing or delivery of written notice to the health studio, and refund upon such notice of all moneys paid under the contract, except that the health studio may retain an amount computed by dividing the number of complete days in the contract term or, if appropriate, the number of occasions health studio services are to be rendered into the total contract price and multiplying the result by the number of complete days that have passed since the making of the contract or, if appropriate, by the number of occasions that health

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958 studio services have been rendered. A refund shall be issued
959 within 30 days after receipt of the notice of cancellation made
960 within the 3-day provision.

961 (b)1. A provision for the cancellation and refund of the
962 contract if the contracting business location of the health
963 studio goes out of business, or moves its facilities more than 5
964 driving miles from the business location designated in such
965 contract and fails to provide, within 30 days, a facility of
966 equal quality located within 5 driving miles of the business
967 location designated in such contract at no additional cost to
968 the buyer.

969 2. A provision that notice of intent to cancel by the buyer
970 shall be given in writing to the health studio. Such a notice of
971 cancellation from the consumer shall also terminate
972 automatically the consumer's obligation to any entity to whom
973 the health studio has subrogated or assigned the consumer's
974 contract. If the health studio wishes to enforce such contract
975 after receipt of such showing, it may request the department to
976 determine the sufficiency of the showing.

977 3. A provision that if the department determines that a
978 refund is due the buyer, the refund shall be an amount computed
979 by dividing the contract price by the number of weeks in the
980 contract term and multiplying the result by the number of weeks
981 remaining in the contract term. The business location of a
982 health studio is ~~shall~~ not be deemed out of business when
983 temporarily closed for repair and renovation of the premises:

- 984 a. Upon sale, for not more than 14 consecutive days; or
985 b. During ownership, for not more than 7 consecutive days
986 and not more than two periods of 7 consecutive days in any

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calendar year.

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

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

(d) A provision for the cancellation of the contract if the buyer dies or becomes physically unable to avail himself or herself of a substantial portion of those services which he or she used from the commencement of the contract until the time of disability, with refund of funds paid or accepted in payment of the contract in an amount computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term. The contract may require a buyer or the buyer's estate seeking relief under this paragraph to provide proof of disability or death. A physical disability sufficient to warrant cancellation of the contract by the buyer shall be established if the buyer furnishes to the health studio a certification of such disability by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 to the extent the diagnosis or treatment of the disability is within the physician's scope of practice. A refund shall be issued within 30 days after receipt of the notice of cancellation made pursuant to this paragraph.

(e) A provision that the initial contract will not be for a period in excess of 36 months, and thereafter shall only be renewable annually. Such renewal contracts may not be executed

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and the fee therefor paid until 60 days or less before the preceding contract expires.

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

Section 29. Subsection (2) of section 501.145, Florida Statutes, is amended to read:

501.145 Bedding Label Act.—

(2) DEFINITIONS.—For the purpose of this section, the term:

(a) "Bedding" means any mattress, box spring, pillow, or cushion made of leather or any other material which is or can be stuffed or filled in whole or in part with any substance or material, which can be used by any human being for sleeping or reclining purposes.

~~(b) "Department" means the Department of Agriculture and Consumer Services.~~

(b) ~~(e)~~ "Enforcing authority" means the Department of Agriculture and Consumer Services or the Department of Legal Affairs.

Section 30. Subsection (8) of section 501.160, Florida Statutes, is amended to read:

501.160 Rental or sale of essential commodities during a declared state of emergency; prohibition against unconscionable prices.—

(8) Any violation of this section may be enforced by the ~~Department of Agriculture and Consumer Services,~~ the office of the state attorney~~7~~, or the Department of Legal Affairs.

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Section 31. Paragraph (a) of subsection (2) of section 501.605, Florida Statutes, is amended to read:

501.605 Licensure of commercial telephone sellers.—

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

(a) The true name, date of birth, driver's license number, ~~social security number~~, and home address of the applicant, including each name under which he or she intends to do business.

The application shall be accompanied by a copy of any: Script, outline, or presentation the applicant will require or suggest a salesperson to use when soliciting, or, if no such document is used, a statement to that effect; sales information or literature to be provided by the applicant to a salesperson; and sales information or literature to be provided by the applicant to a purchaser in connection with any solicitation.

Section 32. Paragraph (a) of subsection (1) of section 501.607, Florida Statutes, is amended to read:

501.607 Licensure of salespersons.—

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

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

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1074 Section 33. Paragraph (f) of subsection (3) of section
1075 539.001, Florida Statutes, is amended to read:

1076 539.001 The Florida Pawnbroking Act.—

1077 (3) LICENSE REQUIRED.—

1078 (f) Any person applying for or renewing a local business
1079 tax receipt ~~occupational license~~ to engage in business as a
1080 pawnbroker must exhibit a current license from the agency before
1081 the local business tax receipt ~~occupational license~~ may be
1082 issued or reissued.

1083 Section 34. Subsection (1) of section 559.805, Florida
1084 Statutes, is amended to read:

1085 559.805 Filings with the department; disclosure of
1086 advertisement identification number.—

1087 (1) Every seller of a business opportunity shall annually
1088 file with the department a copy of the disclosure statement
1089 required by s. 559.803 before ~~prior to~~ placing an advertisement
1090 or making any other representation designed to offer to, sell
1091 to, or solicit an offer to buy a business opportunity from a
1092 prospective purchaser in this state and must ~~shall~~ update this
1093 filing by reporting any material change in the required
1094 information within 30 days after the material change occurs. An
1095 advertisement is not considered to be placed in the state merely
1096 because the advertisement is published in a publisher
1097 ~~circulates, or there is circulated on his or her behalf in the~~
1098 ~~state, any bona fide newspaper or other publication~~ having a ~~of~~
1099 general, regular, and paid circulation in this state which has
1100 had more than two-thirds of its circulation during the past 12
1101 months outside the state or because the advertisement is
1102 received in this state from a radio or television program

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1103 originating outside the state ~~is received in the state~~. If the
1104 seller is required by s. 559.807 to provide a bond or establish
1105 a trust account or guaranteed letter of credit, the seller ~~he or~~
1106 ~~she~~ shall contemporaneously file with the department a copy of
1107 the bond, a copy of the formal notification by the depository
1108 that the trust account is established, or a copy of the
1109 guaranteed letter of credit. Every seller of a business
1110 opportunity must ~~shall~~ file with the department a list of
1111 independent agents who will engage in the offer or sale of
1112 business opportunities on behalf of the seller in this state.
1113 This list must be kept current and must ~~shall~~ include the
1114 following information: name, home and business address,
1115 telephone number, present employer, ~~social security number~~, and
1116 birth date. ~~A No person may not shall be allowed to~~ offer or
1117 sell business opportunities unless the required information has
1118 been provided to the department.

1119 Section 35. Subsection (7) of section 559.904, Florida
1120 Statutes, is amended to read:

1121 559.904 Motor vehicle repair shop registration;
1122 application; exemption.—

1123 (7) Any person applying for or renewing a local business
1124 tax receipt ~~occupational license on or after October 1, 1993,~~ to
1125 engage in business as a motor vehicle repair shop must exhibit
1126 an active registration certificate from the department before
1127 the local business tax receipt ~~occupational license~~ may be
1128 issued or renewed.

1129 Section 36. Section 570.544, Florida Statutes, is amended
1130 to read:

1131 570.544 Division of Consumer Protection Services; director;

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1132 powers; processing of complaints; records.—

1133 (1) The director of the Division of Consumer Protection
1134 ~~Services~~ shall be appointed by and serve at the pleasure of the
1135 commissioner.

1136 (2) The Division of Consumer Protection ~~Services~~ may:

1137 (a) Conduct studies and make analyses of matters affecting
1138 the interests of consumers.

1139 (b) Study the operation of laws for consumer protection.

1140 (c) Advise and make recommendations to the various state
1141 agencies concerned with matters affecting consumers.

1142 (d) Assist, advise, and cooperate with local, state, or
1143 federal agencies and officials in order to promote the interests
1144 of consumers.

1145 (e) Make use of the testing and laboratory facilities of
1146 the department for the detection of consumer fraud.

1147 (f) Report to the appropriate law enforcement officers any
1148 information concerning violation of consumer protection laws.

1149 (g) Assist, develop, and conduct programs of consumer
1150 education and consumer information through publications and
1151 other informational and educational material prepared for
1152 dissemination to the public, in order to increase the competence
1153 of consumers.

1154 (h) Organize and hold conferences on problems affecting
1155 consumers.

1156 (i) Recommend programs to encourage business and industry
1157 to maintain high standards of honesty, fair business practices,
1158 and public responsibility in the production, promotion, and sale
1159 of consumer goods and services.

1160 (3) In addition to the powers, duties, and responsibilities

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1161 authorized by this or any other chapter, the Division of
1162 Consumer Protection Services shall serve as a clearinghouse for
1163 matters relating to consumer protection, consumer information,
1164 and consumer services generally. It shall receive complaints and
1165 grievances from consumers and promptly transmit them to that
1166 agency most directly concerned in order that the complaint or
1167 grievance may be expeditiously handled in the best interests of
1168 the complaining consumer. If no agency exists, the Division of
1169 Consumer Protection Services shall seek a settlement of the
1170 complaint using formal or informal methods of mediation and
1171 conciliation and may seek any other resolution of the matter in
1172 accordance with its jurisdiction.

1173 (4) If any complaint received by the Division of Consumer
1174 Protection Services concerns matters that ~~which~~ involve
1175 concurrent jurisdiction in more than one agency, duplicate
1176 copies of the complaint shall be referred to those offices
1177 deemed to have concurrent jurisdiction.

1178 (5) (a) Any agency, office, bureau, division, or board of
1179 state government receiving a complaint that ~~which~~ deals with
1180 consumer fraud or consumer protection and ~~which~~ is not within
1181 the jurisdiction of the receiving agency, office, bureau,
1182 division, or board originally receiving it, shall immediately
1183 refer the complaint to the Division of Consumer Protection
1184 Services.

1185 (b) Upon receipt of such a complaint, the Division of
1186 Consumer Protection Services shall make a determination of the
1187 proper jurisdiction to which the complaint relates and shall
1188 immediately refer the complaint to the agency, office, bureau,
1189 division, or board that has ~~which does have~~ the proper

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regulatory or enforcement authority to deal with it.

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

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

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

Section 37. Subsection (7) of section 681.102, Florida Statutes, is amended, and present subsections (8) through (23) of that subsection are renumbered as subsections (7) through (22), respectively, to read:

681.102 Definitions.—As used in this chapter, the term:

~~(7) "Division" means the Division of Consumer Services of the Department of Agriculture and Consumer Services.~~

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1219 Section 38. Subsection (3) of section 681.103, Florida
1220 Statutes, is amended to read:

1221 681.103 Duty of manufacturer to conform a motor vehicle to
1222 the warranty.—

1223 (3) At the time of acquisition, the manufacturer shall
1224 inform the consumer clearly and conspicuously in writing how and
1225 where to file a claim with a certified procedure if such
1226 procedure has been established by the manufacturer pursuant to
1227 s. 681.108. The nameplate manufacturer of a recreational vehicle
1228 shall, at the time of vehicle acquisition, inform the consumer
1229 clearly and conspicuously in writing how and where to file a
1230 claim with a program pursuant to s. 681.1096. The manufacturer
1231 shall provide to the dealer and, at the time of acquisition, the
1232 dealer shall provide to the consumer a written statement that
1233 explains the consumer's rights under this chapter. The written
1234 statement shall be prepared by the Department of Legal Affairs
1235 and shall contain a toll-free number for the department which
1236 ~~division that~~ the consumer can contact to obtain information
1237 regarding the consumer's rights and obligations under this
1238 chapter or to commence arbitration. If the manufacturer obtains
1239 a signed receipt for timely delivery of sufficient quantities of
1240 this written statement to meet the dealer's vehicle sales
1241 requirements, it shall constitute prima facie evidence of
1242 compliance with this subsection by the manufacturer. The
1243 consumer's signed acknowledgment of receipt of materials
1244 required under this subsection shall constitute prima facie
1245 evidence of compliance by the manufacturer and dealer. The form
1246 of the acknowledgments shall be approved by the Department of
1247 Legal Affairs, and the dealer shall maintain the consumer's

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signed acknowledgment for 3 years.

Section 39. Section 681.108, Florida Statutes, is amended to read:

681.108 Dispute-settlement procedures.—

(1) If a manufacturer has established a procedure that, ~~which~~ the department ~~division~~ has certified as substantially complying with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and the rules adopted under this chapter, and has informed the consumer how and where to file a claim with such procedure pursuant to s. 681.103(3), the provisions of s. 681.104(2) apply to the consumer only if the consumer has first resorted to such procedure. The decisionmakers for a certified procedure shall, in rendering decisions, take into account all legal and equitable factors germane to a fair and just decision, including, but not limited to, the warranty; the rights and remedies conferred under 16 C.F.R. part 703, in effect October 1, 1983; the provisions of this chapter; and any other equitable considerations appropriate under the circumstances.

Decisionmakers and staff of a procedure shall be trained in the provisions of this chapter and in 16 C.F.R. part 703, in effect October 1, 1983. In an action brought by a consumer concerning an alleged nonconformity, the decision that results from a certified procedure is admissible in evidence.

(2) A manufacturer may apply to the department ~~division~~ for certification of its procedure. After receipt and evaluation of the application, the department ~~division~~ shall certify the procedure or notify the manufacturer of any deficiencies in the application or the procedure.

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1277 (3) A certified procedure or a procedure of an applicant
1278 seeking certification shall submit to the department ~~division~~ a
1279 copy of each settlement approved by the procedure or decision
1280 made by a decisionmaker within 30 days after the settlement is
1281 reached or the decision is rendered. The decision or settlement
1282 must contain at a minimum the:

1283 (a) Name and address of the consumer;

1284 (b) Name of the manufacturer and address of the dealership
1285 from which the motor vehicle was purchased;

1286 (c) Date the claim was received and the location of the
1287 procedure office that handled the claim;

1288 (d) Relief requested by the consumer;

1289 (e) Name of each decisionmaker rendering the decision or
1290 person approving the settlement;

1291 (f) Statement of the terms of the settlement or decision;

1292 (g) Date of the settlement or decision; and

1293 (h) Statement of whether the decision was accepted or
1294 rejected by the consumer.

1295 (4) Any manufacturer establishing or applying to establish
1296 a certified procedure must file with the department ~~division~~ a
1297 copy of the annual audit required under the provisions of 16
1298 C.F.R. part 703, in effect October 1, 1983, together with any
1299 additional information required for purposes of certification,
1300 including the number of refunds and replacements made in this
1301 state pursuant to the provisions of this chapter by the
1302 manufacturer during the period audited.

1303 (5) The department ~~division~~ shall review each certified
1304 procedure at least annually, prepare an annual report evaluating
1305 the operation of certified procedures established by motor

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1306 vehicle manufacturers and procedures of applicants seeking
1307 certification, and, for a period not to exceed 1 year, shall
1308 grant certification to, or renew certification for, those
1309 manufacturers whose procedures substantially comply with the
1310 provisions of 16 C.F.R. part 703, in effect October 1, 1983, and
1311 with the provisions of this chapter and rules adopted under this
1312 chapter. If certification is revoked or denied, the department
1313 ~~division~~ shall state the reasons for such action. The reports
1314 and records of actions taken with respect to certification shall
1315 be public records.

1316 (6) A manufacturer whose certification is denied or revoked
1317 is entitled to a hearing pursuant to chapter 120.

1318 (7) If federal preemption of state authority to regulate
1319 procedures occurs, the provisions of subsection (1) concerning
1320 prior resort do not apply.

1321 (8) The department may ~~division shall~~ adopt rules to
1322 administer ~~implement~~ this section.

1323 Section 40. Section 681.109, Florida Statutes, is amended
1324 to read:

1325 681.109 Florida New Motor Vehicle Arbitration Board;
1326 dispute eligibility.—

1327 (1) If a manufacturer has a certified procedure, a consumer
1328 claim arising during the Lemon Law rights period must be filed
1329 with the certified procedure no later than 60 days after the
1330 expiration of the Lemon Law rights period. If a decision is not
1331 rendered by the certified procedure within 40 days of filing,
1332 the consumer may apply to the department ~~division~~ to have the
1333 dispute removed to the board for arbitration.

1334 (2) If a manufacturer has a certified procedure, a consumer

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claim arising during the Lemon Law rights period must be filed with the certified procedure within ~~no later than~~ 60 days after the expiration of the Lemon Law rights period. If a consumer is not satisfied with the decision or the manufacturer's compliance therewith, the consumer may apply to the department ~~division~~ to have the dispute submitted to the board for arbitration. A manufacturer may not seek review of a decision made under its procedure.

(3) If a manufacturer does not have a ~~has no~~ certified procedure or if the ~~a~~ certified procedure does not have jurisdiction to resolve the dispute, a consumer may apply directly to the department ~~division~~ to have the dispute submitted to the board for arbitration.

(4) A consumer must request arbitration before the board with respect to a claim arising during the Lemon Law rights period no later than 60 days after the expiration of the Lemon Law rights period, or within 30 days after the final action of a certified procedure, whichever date occurs later.

(5) The department ~~division~~ shall screen all requests for arbitration before the board to determine eligibility. The consumer's request for arbitration before the board shall be made on a form prescribed by the department. The department ~~division~~ shall forward to the board all disputes that the department ~~division~~ determines are potentially entitled to relief under this chapter.

(6) The department ~~division~~ may reject a dispute that it determines to be fraudulent or outside the scope of the board's authority. Any dispute deemed by the department ~~division~~ to be ineligible for arbitration by the board due to insufficient

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evidence may be reconsidered upon the submission of new information regarding the dispute. Following a second review, the department ~~division~~ may reject a dispute if the evidence is clearly insufficient to qualify for relief. If the department rejects a dispute, it must provide notice of the rejection and a brief explanation of the reason for rejection ~~Any dispute rejected by the division shall be forwarded to the department and a copy shall be sent by registered mail to the consumer and to the manufacturer, containing a brief explanation as to the reason for rejection.~~

(7) If the department ~~division~~ rejects a dispute, the consumer may file a lawsuit to enforce the remedies provided under this chapter. In any civil action arising under this chapter and relating to a matter considered by the department ~~division~~, any determination made to reject a dispute is admissible in evidence.

(8) The department ~~may shall have the authority to~~ adopt ~~reasonable~~ rules to administer ~~carry out the provisions of this~~ section.

Section 41. Subsections (2), (3), (4), (5), (9), (11), and (12) of section 681.1095, Florida Statutes, are amended, and subsection (17) is added to that section, to read:

681.1095 Florida New Motor Vehicle Arbitration Board; creation and function.—

(2) The board ~~boards~~ shall hear cases in various locations throughout the state so that any consumer whose dispute is approved for arbitration by the department ~~division~~ may attend an arbitration hearing at a reasonably convenient location and present a dispute orally. Hearings shall be conducted by panels

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of three board members assigned by the department. A majority vote of the three-member board panel shall be required to render a decision. Arbitration proceedings under this section shall be open to the public on reasonable and nondiscriminatory terms.

(3) Each region of the board shall consist of up to eight members. The members of the board shall construe and apply the provisions of this chapter, and rules adopted thereunder, in making their decisions. An administrator and a secretary shall be assigned to the each board by the Department of Legal Affairs. At least one member of the each board in each region must have ~~be a person with~~ expertise in motor vehicle mechanics. A member may ~~must~~ not be employed by a manufacturer or a franchised motor vehicle dealer or be a staff member, a decisionmaker, or a consultant for a procedure. Board members shall be trained in the application of this chapter and any rules adopted under this chapter. Members of the board, shall be ~~reimbursed for travel expenses pursuant to s. 112.061, and shall~~ be compensated at a rate or wage prescribed by the Attorney General and are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061.

(4) Before filing a civil action on a matter subject to s. 681.104, the consumer must first submit the dispute to the department ~~division~~, and to the board if such dispute is deemed eligible for arbitration.

(5) Manufacturers shall submit to arbitration conducted by the board if such arbitration is requested by a consumer and the dispute is deemed eligible for arbitration by the department ~~division~~ pursuant to s. 681.109.

(9) The decision of the board shall be sent by any method

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1422 providing a delivery confirmation ~~registered mail~~ to the
1423 consumer and the manufacturer, and shall contain written
1424 findings of fact and rationale for the decision. If the decision
1425 is in favor of the consumer, the manufacturer must, within 40
1426 days after receipt of the decision, comply with the terms of the
1427 decision. Compliance occurs on the date the consumer receives
1428 delivery of an acceptable replacement motor vehicle or the
1429 refund specified in the arbitration award. In any civil action
1430 arising under this chapter and relating to a dispute arbitrated
1431 before the board, any decision by the board is admissible in
1432 evidence.

1433 (11) ~~All provisions in~~ This section and s. 681.109
1434 pertaining to compulsory arbitration before the board, the
1435 dispute eligibility screening by the department ~~division~~, the
1436 proceedings and decisions of the board, and any appeals thereof,
1437 are exempt from ~~the provisions of~~ chapter 120.

1438 (12) An appeal of a decision by the board to the circuit
1439 court by a consumer or a manufacturer shall be by trial de novo.
1440 In a written petition to appeal a decision by the board, the
1441 appealing party must state the action requested and the grounds
1442 relied upon for appeal. Within 15 ~~30~~ days after ~~of~~ final
1443 disposition of the appeal, the appealing party shall furnish the
1444 department with ~~notice of such disposition and, upon request,~~
1445 ~~shall furnish the department with~~ a copy of the settlement or
1446 the order or judgment of the court.

1447 (17) The department may adopt rules to administer this
1448 section.

1449 Section 42. Subsection (2) of section 681.1096, Florida
1450 Statutes, is amended to read:

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1451 681.1096 RV Mediation and Arbitration Program; creation and
1452 qualifications.—

1453 (2) Each manufacturer of a recreational vehicle involved in
1454 a dispute that is determined eligible under this chapter,
1455 including chassis and component manufacturers that ~~which~~
1456 separately warrant the chassis and components and that ~~which~~
1457 otherwise meet the definition of manufacturer set forth in s.
1458 681.102(13) ~~681.102(14)~~, shall participate in a mediation and
1459 arbitration program that is deemed qualified by the department.

1460 Section 43. Subsection (2) of section 681.112, Florida
1461 Statutes, is amended to read:

1462 681.112 Consumer remedies.—

1463 (2) An action brought under this chapter must be commenced
1464 within 1 year after the expiration of the Lemon Law rights
1465 period, or, if a consumer resorts to an informal dispute-
1466 settlement procedure or submits a dispute to the department
1467 ~~division~~ or board, within 1 year after the final action of the
1468 procedure, department ~~division~~, or board.

1469 Section 44. Subsection (1) of section 681.117, Florida
1470 Statutes, is amended to read:

1471 681.117 Fee.—

1472 (1) A \$2 fee shall be collected by a motor vehicle dealer,
1473 or by a person engaged in the business of leasing motor
1474 vehicles, from the consumer at the consummation of the sale of a
1475 motor vehicle or at the time of entry into a lease agreement for
1476 a motor vehicle. Such fees shall be remitted to the county tax
1477 collector or private tag agency acting as agent for the
1478 Department of Revenue. If the purchaser or lessee removes the
1479 motor vehicle from the state for titling and registration

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outside this state, the fee shall be remitted to the Department of Revenue. All fees, less the cost of administration, shall be transferred monthly to the Department of Legal Affairs for deposit into the Motor Vehicle Warranty Trust Fund. The Department of Legal Affairs shall distribute monthly an amount not exceeding one-fourth of the fees received to the Division of Consumer Protection Services of the Department of Agriculture and Consumer Services to carry out the provisions of ss. 681.108 and 681.109. ~~The Department of Legal Affairs shall contract with the Division of Consumer Services for payment of services performed by the division pursuant to ss. 681.108 and 681.109.~~

Section 45. Subsection (3) of section 849.0915, Florida Statutes, is amended to read:

849.0915 Referral selling.—

(3) In addition to the penalty provided herein, the Attorney General and her or his assistants, the state attorneys and their assistants, and the Division of Consumer Protection Services of the Department of Agriculture and Consumer Services are authorized to apply to the circuit court within their respective jurisdictions, and the ~~such~~ court has ~~shall have~~ jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating the provisions of this section, whether or not there exists an adequate remedy at law, and such injunction shall issue without bond.

Section 46. This act shall take effect July 1, 2011.