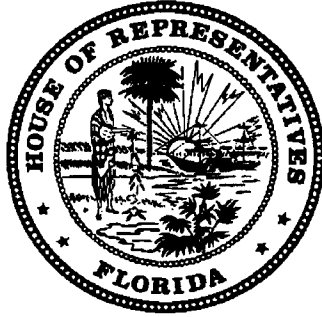




Government Operations Appropriations Subcommittee Meeting Packet

**February 8, 2016
3:00 p.m. – 5:00 p.m.
Morris Hall**



AGENDA

Government Operations Appropriations Subcommittee
February 8, 2016
3:00 p.m. – 5:00 p.m.
Morris Hall

- I. **Call to Order/Roll Call**

- II. **Consideration of the following proposed committee bill(s):**
PCB GOAS 16-01 -- Session Date for 2018

- III. **Consideration of Bills**
HB 303 Unlicensed Activity Fees by Burton

HB 513 Florida Holocaust Memorial by Moskowitz

CS/HB 651 Department of Financial Services by Insurance & Banking Subcommittee, Beshears

CS/HB 671 Prohibited Property Insurance Practices by Insurance & Banking Subcommittee, Broxson

CS/HB 1033 Information Technology Security by Government Operations Subcommittee, Artiles



CS/HB 1211 Drugs, Devices, and Cosmetics by Health Quality Subcommittee, Plakon

CS/HB 1219 Veterans' Employment by Veteran & Military Affairs Subcommittee, Raburn

- IV. **Closing Remarks/Adjourn**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GOAS 16-01 Session Date for 2018
SPONSOR(S): Government Operations Appropriations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Appropriations Subcommittee		Keith 	Topp 

SUMMARY ANALYSIS

The State Constitution provides that, in odd-numbered years, the regular session of the Legislature must begin on the first Tuesday after the first Monday in March. The State Constitution, however, permits the Legislature to fix by law the date for convening the regular legislative session for each even-numbered year. The Legislature has not permanently fixed a specific date in law for even-numbered years. However, Ch. 2014-106, Laws of Florida, adjusted the beginning date of the 2016 regular legislative session to begin on January 12, 2016, for one year only. As such, the regular legislative session for all years post 2016, convenes on the first Tuesday after the first Monday in March.

The bill requires the 2018 Regular Session of the Legislature to convene on Tuesday, January 9, 2018.

The bill has no fiscal impact on state or local government.

The bill provides that it takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The State Constitution prescribes the date for convening the 60-day regular session of the Legislature. Specifically, the State Constitution provides that, in odd-numbered years, the regular session of the Legislature must begin on the first Tuesday after the first Monday in March. The State constitution, however, permits the Legislature to fix by law the date for convening the regular session in each even-numbered year.¹

Presently, the Legislature has not permanently fixed a specific date in law for even-numbered years. However, Ch. 2014-106, Laws of Florida, adjusted the beginning date of the 2016 regular legislative session to begin on January 12, 2016, for one year only. As such, the regular legislative session for all years post 2016, convenes on the first Tuesday after the first Monday in March.²

Effect of the Bill

The bill requires the 2018 Regular Session of the Legislature to convene on Tuesday, January 9, 2018.

B. SECTION DIRECTORY:

Section 1: creates an unnumbered section of law and fixes the date for convening the 2018 Regular Session of the Legislature.

Section 2: provides that the act is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

¹ Subsection 3(b), Article III, Florida Constitution

² Traditionally, the Legislature fixes an early start date for the regular session in apportionment (redistricting) years. For example, in 2012, the regular legislative session started on January 10, 2012. See chapter 2010-91, L.O.F. In addition, the 2016 regular legislative session started on January 12, 2016. See chapter 2014-106, L.O.F.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Moving the start date of the regular legislative session in 2018 would provide that the Legislature enact the state budget approximately six weeks earlier than current practice. This would provide state agencies with additional time prior to the start of the fiscal year to implement or react to any budgetary changes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Governor's Recommended Budget

Current law requires the Governor to submit a recommended balanced budget to the state at least 30 days before the scheduled annual legislative session, unless a later date is approved in writing by the President of the Senate and the Speaker of the House of Representatives.³ Moving the start date of the regular legislative session in even-numbered years would require the Governor to submit a recommended balanced budget earlier in those years.

Other Comments: Declaration of Impasse

Current law requires the Governor to declare an impasse in all collective bargaining negotiations for which he or she is deemed to be the public employer and for which a collective bargaining agreement has not been executed at the same time the Governor is required to furnish his or her recommended budget to the Legislature.⁴ Moving the start date of the regular legislative session in even-numbered years would require the Governor to declare an impasse in collective bargaining issues earlier in those years.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

³ Section 216.162(1), F.S.

⁴ Section 216.163(6), F.S.

PCB GOAS 16-01

2016

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A bill to be entitled
An act relating to the Legislature; fixing the date
for convening the 2018 Regular Session of the
Legislature; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:
Section 1. In accordance with subsection (b) of Section 3
of Article III of the State Constitution, and in lieu of the
date fixed therein, the 2018 Regular Session of the Legislature
shall convene on January 9, 2018.
Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 303 Unlicensed Activity Fees
SPONSOR(S): Burton
TIED BILLS: IDEN./SIM. BILLS: SB 394

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	11 Y, 0 N	Brown-Blake	Anstead
2) Government Operations Appropriations Subcommittee		Topp	Topp <i>BDT</i>
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (Department) licenses and regulates businesses and professionals in Florida. The Department's mission is to license efficiently and regulate fairly.

The Department is required to investigate persons practicing a profession without being licensed to do so. The costs of investigation of unlicensed activity is covered with an unlicensed activity fee of \$5 per licensee upon initial licensure and biennial renewal. The funds are collected by the Department and placed in a fund for each specified profession.

The bill would require the Department to waive the \$5-per-licensee unlicensed activity fee under certain circumstances.

The bill prohibits the Department from requiring payment of the unlicensed activity fee if, at the beginning of the fiscal year, the profession's unlicensed activity account balance totals more than twice the cost of that profession's expenses for unlicensed activity investigations from the preceding two fiscal years combined. If a professional board meets these requirements, all of the licensees licensed by that board are exempt from paying the unlicensed activity fee for that renewal period. A profession that has a deficit in its operating account or is projected to have such a deficit within the next 5 years must continue to obtain the unlicensed activity fee from its licensees for each renewal cycle.

The bill is anticipated to significantly reduce unlicensed activity fee revenue to the Department's Professional Regulation Trust Fund. The reduction in fee revenue is estimated to be \$1,564,735 in Fiscal Year 2016-2017, \$1,624,715 in Fiscal Year 2017-2018, and \$1,568,735 in Fiscal Year 2018-2019.

The bill has no fiscal impact on local government.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Department licenses and regulates businesses and professionals in Florida. The Department includes separate divisions and various professional boards that are responsible for carrying out the Department's mission to license efficiently and regulate fairly.

The Department is required to investigate persons practicing a profession without being licensed to do so.¹ Section 455.01(6), F.S., defines "professions" as "any activity, occupation, profession, or vocation regulated by the [D]epartment in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation." The Division of Professions houses the:

- Board of Architecture and Interior Design;
- Florida Board of Auctioneers;
- Barbers' Board;
- Florida Building Code Administrators and Inspectors Board;
- Construction Industry Licensing Board;
- Board of Cosmetology;
- Electrical Contractors' Licensing Board;
- Board of Employee Leasing Companies;
- Board of Landscape Architecture;
- Board of Pilot Commissioners;
- Board of Professional Engineers;
- Board of Professional Geologists;
- Board of Veterinary Medicine;
- Home inspection services licensing program; and
- Mold-related services licensing program.

Each individual profession is required to cover the costs of investigation and enforcement.² The Department imposes an unlicensed activity fee of \$5 per licensee upon initial licensure and biennial renewal to fund efforts to combat unlicensed activity.³

The Department has indicated that some professions have enough funds to cover the costs of unlicensed activity investigation and enforcement without collecting unlicensed activity fees every renewal cycle. The following chart illustrates that some boards collect more in unlicensed activity fees than is used to cover the costs, while maintaining a large board account balance:

	ULA Fee Revenue 2014 and 2015 Total	ULA Expenditures 2014 and 2015 Total	ULA Account Balance July 1, 2014
Barber's Board	\$103,407	\$103,486	\$270,739
Board of Cosmetology	\$1,242,594	\$427,937	\$2,352,799

¹ s. 455.2281, F.S.

² s. 455.2281, F.S.

³ s. 455.2281, F.S.

Effect of the Bill

The bill prohibits the Department from requiring payment of the unlicensed activity fee during a license renewal for a profession if, at the beginning of the fiscal year prior to the renewal, the profession's unlicensed activity account balance totals more than twice the cost of that profession's unlicensed activity enforcement from the preceding two fiscal years combined. If a professional board meets these requirements, all of the licensees licensed by that board are exempt from paying the unlicensed activity fee for that renewal period.

A profession that has a deficit in its operating account or is projected to have a deficit within the next 5 years must continue to obtain the unlicensed activity fee from its licensees for each renewal cycle.

B. SECTION DIRECTORY:

Section 1 amends s. 455.2281, F.S., prohibiting the Department of Business and Professional Regulation from imposing an unlicensed activity fee in certain circumstances.

Section 2 provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department indicates that they will have a reduction in unlicensed activity fee revenue of approximately \$1,564,735 in Fiscal Year 2016-2017, \$1,624,715 in Fiscal Year 2017-2018, and \$1,568,735 in Fiscal Year 2018-2019.⁴ There will be a corresponding reduction in the 8% service charge sent to General Revenue of approximately \$125,179 in Fiscal Year 2016-2017, \$129,977 in Fiscal Year 2017-2018, and \$125,499 in Fiscal Year 2018-2019.

There is no adverse impact on the operating accounts of any profession/board as the proposed fee waiver targets those professions with a specified surplus balance in their unlicensed activity accounts.

The bill has no fiscal impact on local government.

Professional Regulation Trust Fund			
	FY 2016-17	FY 2017-18	FY 2018-19
Beginning Balance	51,561,943	59,405,441	61,993,255
Estimated Revenue	80,733,880	74,567,686	79,363,825
Impact of HB 303	(1,564,735)	(1,624,715)	(1,568,735)
TOTAL Revenue	130,731,088	132,348,412	139,788,345
Estimated Expenditures	(71,325,647)	(70,355,157)	(71,723,987)
Estimated Year-end Balance	59,405,441	61,993,255	68,064,358

⁴ Email from Department of Business and Professional Regulation staff regarding fiscal impact of CS/HB 303 (Jan. 25, 2016 on file with Government Operations Appropriations Subcommittee).

Profession / Board	Projected to qualify for Unlicensed Activity Fee Waiver ⁵		
	2016-17	2017-18	2018-19
Board of Accountancy	No	No	No
Board of Architecture and Interior Design	No	No	No
Asbestos Unit	Yes	Yes	Yes
Athlete Agents	Yes	No	Yes
Board of Auctioneers	No	No.	No
Barber's Board	No	No	No
Building Code Admin & Inspectors	No	Yes	No
Community Association Managers	No	No	No
Construction Industry Licensing Board	No	No	No
Board of Cosmetology	Yes	Yes	Yes
Electrical Contractors Licensing Board	No	No	No
Board of Employee Leasing	No	No	No.
Board of Professional Engineers	No	No	Yes
Board of Professional Geologists	No	No	No
Board of Pilot Commissioners	No	No	No
Home Inspections	No	No	Yes
Board of Landscape Architects	No	Yes	No
Mold Related Service	No	No	No
Real Estate Appraisal Board	Yes	No	Yes
Real Estate Commission	Yes	Yes	Yes
Talent Agents	No	No	No
Board of Veterinary Medicine	No	Yes	No

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce licensee expenditures for renewal of licenses for certain professions by \$5 per license renewal.

D. FISCAL COMMENTS:

None.

⁵ Email from Department of Business and Professional Regulation staff to Government Operations Appropriations Subcommittee staff, (February 2, 2016, on file with Government Operations Appropriations Subcommittee).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to unlicensed activity fees; amending
 3 s. 455.2281, F.S.; prohibiting the Department of
 4 Business and Professional Regulation from imposing a
 5 specified fee in certain circumstances; providing for
 6 applicability of the waiver; providing an effective
 7 date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Section 455.2281, Florida Statutes, is amended
 12 to read:

13 455.2281 Unlicensed activities; fees; disposition.— In
 14 order to protect the public and to ensure a consumer-oriented
 15 department, it is the intent of the Legislature that vigorous
 16 enforcement of regulation for all professional activities is a
 17 state priority. All enforcement costs should be covered by
 18 professions regulated by the department. Therefore, the
 19 department shall impose, upon initial licensure and each
 20 subsequent renewal thereof, a special fee of \$5 per licensee,
 21 ~~Such fee shall be~~ in addition to all other fees imposed,
 22 ~~collected from each licensee to and shall~~ fund efforts to combat
 23 unlicensed activity. However, the department may not impose this
 24 special fee on a license renewal for any profession whose
 25 unlicensed activity account balance, at the beginning of the
 26 fiscal year before the renewal, totals more than twice the total

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

27 | of the expenditures for unlicensed activity enforcement efforts
 28 | in the preceding 2 fiscal years. This waiver applies to all
 29 | licensees within the profession, and assessment of the special
 30 | fee may not begin or resume until the renewal cycle subject to
 31 | the waiver has ended for all of the licensees in that
 32 | profession. This waiver does not apply to a profession that has
 33 | a deficit in its operating account or that is projected to have
 34 | such a deficit in the next 5 fiscal years. Any profession
 35 | regulated by the department which offers services that are not
 36 | subject to regulation when provided by an unlicensed person may
 37 | use funds in its unlicensed activity account to inform the
 38 | public of such situation. The board with concurrence of the
 39 | department, or the department when there is no board, may
 40 | earmark \$5 of the current licensure fee for this purpose, if
 41 | such board, or profession regulated by the department, is not in
 42 | a deficit and has a reasonable cash balance. A board or
 43 | profession regulated by the department may authorize the
 44 | transfer of funds from the operating fund account to the
 45 | unlicensed activity account of that profession if the operating
 46 | fund account is not in a deficit and has a reasonable cash
 47 | balance. The department shall make direct charges to this fund
 48 | by profession and may ~~shall~~ not allocate indirect overhead. The
 49 | department shall seek board advice regarding enforcement methods
 50 | and strategies prior to expenditure of funds; however, the
 51 | department may, without board advice, allocate funds to cover
 52 | the costs of continuing education compliance monitoring under s.

53 455.2177. The department shall directly credit, by profession,
 54 revenues received from the department's efforts to enforce
 55 licensure provisions. The department shall include all financial
 56 and statistical data resulting from unlicensed activity
 57 enforcement and from continuing education compliance monitoring
 58 as separate categories in the quarterly management report
 59 provided for in s. 455.219. The department may ~~shall~~ not charge
 60 the account of any profession for the costs incurred on behalf
 61 of any other profession. With the concurrence of the applicable
 62 board and the department, any balance that remains in ~~For~~ an
 63 unlicensed activity account, ~~a balance which remains~~ at the end
 64 of a renewal cycle may, ~~with concurrence of the applicable board~~
 65 ~~and the department,~~ be transferred to the operating fund account
 66 of that profession.

67 Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 513 Florida Holocaust Memorial
SPONSOR(S): Moskowitz and others
TIED BILLS: IDEN./SIM. **BILLS:** HB 405, SB 716

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N	Toliver	Williamson
2) Government Operations Appropriations Subcommittee		White <i>CCW</i>	Topp <i>BPT</i>
3) State Affairs Committee			

SUMMARY ANALYSIS

There are numerous Holocaust memorials, monuments, and museums worldwide, of which at least five are located in Florida.

The bill establishes the Florida Holocaust Memorial on the premises of the Capitol Complex. The Department of Management Services is required to construct, place, and administer the memorial after considering recommendations from the Florida Historical Commission and coordinating with the Division of Historical Resources within the Department of State regarding the memorial's design and placement.

The bill may have an indeterminate fiscal impact on the Department of Management Services. It does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Holocaust Memorials and Museums in Florida

The Holocaust was a genocide in which approximately six million Jews were killed by the Nazi regime and its collaborators during World War II.

There are numerous memorials, monuments, and museums worldwide, of which at least five are located in Florida. The Florida memorials and museums include:

- A memorial on the Temple B’Nai Israel property in Clearwater;¹
- The Florida Holocaust Museum in St. Petersburg;²
- The Holocaust Memorial Resource and Education Center of Florida in Maitland;³
- A memorial in Miami Beach;⁴ and
- The Holocaust Museum and Education Center of Southwest Florida in Naples.⁵

Capitol Center

The Capitol Center⁶ is under the general control, custodianship, and supervision of the Department of Management Services (DMS).⁷ This also includes the management, maintenance, and upkeep of both the grounds and buildings.⁸ DMS may provide for the establishment of parks, drives, walkways, and parkways on the grounds of the Capitol Center.⁹ This responsibility has historically included assistance in establishing and maintaining public memorials throughout the Capitol Center, including project management oversight of the design and construction of memorials.¹⁰

Capitol Complex Monuments

Section 281.01, F.S., defines the term “Capitol Complex” as:

[T]hat portion of Tallahassee, Leon County, Florida, commonly referred to as the Capitol, the Historic Capitol, the Senate Office Building, the House Office Building, the Knott Building, the Pepper Building, the Holland Building, and the curtilage of each, including the state-owned lands and public streets adjacent thereto within an area bounded by and including Monroe Street, Jefferson Street, Duval Street, and Gaines Street. The term shall also include the State Capital Circle Office Complex located in Leon County, Florida.

¹ Holocaust Memorial in Clearwater, Florida, available at http://www.waymarking.com/waymarks/WM7JP0_Holocaust_Memorial_Clearwater_FL (last visited Jan. 23, 2016).

² Florida Holocaust Museum, Florida Holocaust Museum History, available at <https://www.flholocaustmuseum.org/about/fhm-history/> (last visited Jan. 8, 2016).

³ Holocaust Memorial Resource & Education Center of Florida, About Us, available at http://www.holocaustedu.org/about_us (last visited Jan. 9, 2016).

⁴ The Holocaust Memorial Miami Beach, History of the Holocaust Memorial, available at <http://holocaustmemorialmiamibeach.org/about/history/> (last visited Jan. 8, 2016).

⁵ The Holocaust Museum & Education Center of Southwest Florida, Our Mission, available at <http://www.holocaustmuseumsfwl.org/our-mission/> (last visited Jan. 8, 2016).

⁶ Section 272.12(1), F.S., describes the Capitol Center as the Tallahassee area bounded by Martin Luther King, Jr. Boulevard, College Avenue, Franklin Boulevard, East Jefferson Street, and the Seaboard Coastline Railway right-of-way.

⁷ Section 272.03(1), F.S.

⁸ Section 272.09, F.S.

⁹ Section 272.07, F.S.

¹⁰ Department of Management Services, HB 731 Analysis (Feb. 19, 2014) (copy on file with the Government Operations Subcommittee).

A monument¹¹ may not be constructed or placed on the premises of the Capitol Complex unless authorized by general law and unless the design and placement of the monument is approved by DMS after considering the recommendations of the Florida Historical Commission.¹² DMS must coordinate with the Division of Historical Resources of the Department of State regarding a monument's design and placement.¹³ DMS, in consultation with the Florida Historical Commission, must set aside an area of the Capitol Complex to be dedicated as a memorial garden for the placement of authorized monuments.¹⁴

Division of Historical Resources

The Division of Historical Resources, which is established within the Department of State,¹⁵ in part, is responsible for:

- Developing a comprehensive statewide historic preservation plan.
- Directing and conducting a comprehensive statewide survey of historic resources and maintaining an inventory of such resources.
- Ensuring that historic resources are taken into consideration at all levels of planning and development.
- Providing public information, education, and technical assistance relating to historic preservation programs.¹⁶

Florida Historical Commission

The Florida Historical Commission (Commission) was established to enhance public participation and involvement in the preservation and protection of the state's historic and archaeological sites and properties.¹⁷ The Commission is created within the Department of State and is tasked with advising and assisting the Division of Historical Resources in carrying out its programs, duties and responsibilities.¹⁸

The Commission is composed of 11 members. Seven members of the Commission are appointed by the Governor in consultation with the Secretary of State, two by the President of the Senate, and two by the Speaker of the House of Representatives.¹⁹ The Commission must include:

- A licensed architect with expertise in historic preservation and architectural history;
- A professional historian in the field of American history;
- A professional architectural historian;
- An archaeologist specializing in the field of prehistory;
- An archaeologist specializing in the historic period; and
- Representatives of the public with demonstrated interest in the preservation of Florida's historical and archaeological heritage.²⁰

The Commission must provide assistance, advice, and recommendations to the Division of Historical Resources.²¹ Section 267.0612(9), F.S., also requires the Commission to provide recommendations to DMS on the design and placement of monuments authorized by general law to be placed on the premises of the Capitol Complex pursuant to s. 265.111, F.S.

¹¹ Section 265.111(1), F.S., defines the term "monument" to mean a permanent structure such as a marker, statue, sculpture, plaque, or other artifice, including living plant material, placed in remembrance or recognition of significant person or event in Florida history. The term does not include any "Official Florida Historical Marker" as defined in s. 267.021, F.S.

¹² Section 265.111(2), F.S.

¹³ *Id.*

¹⁴ Section 265.111(3), F.S.

¹⁵ Section 20.10(2)(b), F.S.

¹⁶ *See* s. 267.031(5), F.S.

¹⁷ Chapter 2001-199, L.O.F.; codified as s. 267.0612, F.S.

¹⁸ Section 267.0612, F.S.

¹⁹ Section 267.0612(1)(a)1., F.S.

²⁰ *Id.*

²¹ *See* s. 267.0612(6), F.S.

Effect of the Bill

The bill establishes the Florida Holocaust Memorial on the premises of the Capitol Complex, but not including the State Capital Circle Office Complex. The bill directs DMS to administer the memorial and to construct and place the Florida Holocaust Memorial after it has considered the recommendations of the Florida Historical Commission and coordinated with the Division of Historical Resources regarding the memorial's design and placement.

B. SECTION DIRECTORY:

Section 1 creates s. 265.005, F.S., establishing the Florida Holocaust Memorial.

Section 2 provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There is an indeterminate cost to DMS for the creation and placement of the memorial, because the bill does not include an appropriation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the Florida Holocaust Memorial;
 3 creating s. 265.005, F.S.; providing legislative
 4 intent; establishing the Florida Holocaust Memorial;
 5 providing for administration by the Department of
 6 Management Services; prohibiting the department from
 7 constructing and placing the memorial until certain
 8 conditions are met; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 265.005, Florida Statutes, is created
 13 to read:

14 265.005 Florida Holocaust Memorial.—

15 (1) It is the intent of the Legislature to recognize and
 16 commemorate the millions of people, including six million Jews,
 17 murdered by the Nazis and their collaborators before and during
 18 World War II in Europe and to honor the survivors of the
 19 Holocaust through the establishment of the Florida Holocaust
 20 Memorial.

21 (2) There is established the Florida Holocaust Memorial.

22 (a) The memorial is administered by the Department of
 23 Management Services.

24 (b) The Department of Management Services shall set aside
 25 an appropriate public area for the memorial on the premises of
 26 the Capitol Complex, as defined in s. 281.01, but not including

27 the State Capital Circle Office Complex. The department shall
28 construct and place the Florida Holocaust Memorial after it has
29 considered the recommendations of the Florida Historical
30 Commission as required pursuant to ss. 265.111 and 267.0612(9)
31 and coordinated with the Division of Historical Resources of the
32 Department of State regarding the memorial's design and
33 placement.

34 Section 2. This act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
 2 Appropriations Subcommittee

3 Representative Moskowitz offered the following:



4
 5 **Amendment**

6 Remove lines 24-33 and insert:

7 (b) The Department of Management Services shall develop a plan
 8 for the design, placement, and cost of the Florida Holocaust Memorial.
 9 The plan shall include designating an appropriate public area for the
 10 memorial on the premises of the Capitol Complex, as defined in s.
 11 281.01, but not including the State Capital Circle Office Complex.
 12 The department shall consider the recommendations of the Florida
 13 Historical Commission as required pursuant to ss. 265.111 and
 14 267.0612(9) and coordinate with the Division of Historical Resources
 15 of the Department of State on the plan. The plan shall be submitted
 16 to the Governor, the President of the Senate, and the Speaker of the
 17 House of Representatives by October 15, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 651 Department of Financial Services
SPONSOR(S): Insurance & Banking Subcommittee; Beshears
TIED BILLS: IDEN./SIM. BILLS: CS/SB 992

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	11 Y, 1 N, As CS	Yaffe	Luczynski
2) Government Operations Appropriations Subcommittee		Keith 	Topp 
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

The bill modifies several areas regulated by the Department of Financial Services (DFS), including:

- Authorizing the DFS to create an Internet-based system for the electronic transmission of service of process documents served on the Chief Financial Officer of the State;
- Adding a fee for service of process to unauthorized insurers;
- Revising requirements relating to service of legal process and revising requirements relating to service of process upon insurers or persons representing or aiding insurers;
- Removing the requirement that the Executive Office of the Governor review and approve certain alternative retirement income security programs;
- Clarifying the eligibility requirements for participation in the State's deferred compensation plan;
- Revising requirements for the approval of certain surety bonds;
- Amending the Florida Single Audit Act to conform to new federal standards, defining the term "higher education entity," and adding specific provisions applicable to higher education entities;
- Authorizing the DFS to access the digital photographs of licenses from the Department of Highway Safety and Motor Vehicles' digital records to investigate alleged violations of the insurance code by licensees and unlicensed persons;
- Revising safety regulations for carbon monoxide detectors in public lodging establishments;
- Amending the export requirements for commercial residential property insurance;
- Amending the appointment procedures for the Florida Surplus Lines Service Office board of governors;
- Providing additional grounds for the disqualification of a neutral evaluator in sinkhole insurance claims disputes;
- Creating procedures to grant exemptions to persons disqualified from licensure or certification by the Division of State Fire Marshall (DSFM);
- Creating the Firefighter Assistance Grant Program;
- Clarifying that the Life Safety Code does not apply to one-family and two-family dwellings;
- Amending the requirements for obtaining a firefighter certificate of compliance;
- Providing for the expiration of firefighter and volunteer firefighter certificates of compliance and completion four years after the date of issuance unless renewed;
- Repealing the statute requiring the DSFM to suspend or revoke a firefighter's certification under certain conditions; and
- Amending the requirements to renew firefighter certifications.

The bill will have a significant negative fiscal impact on state trust fund expenditures and a minimal positive impact on state trust fund revenue. The bill provides for the creation and administration of the Firefighter Assistance Grant Program within the DFS, which shall provide financial assistance for volunteer and combination fire departments. The bill also establishes a \$25 fee for service of process on unauthorized insurers. The bill has no fiscal impact on local government revenue or expenditures. The Internet-based system for the electronic transmission of service of process documents should have a positive fiscal impact on the private sector.

The bill has an effective date of July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation - Service of Process

Florida law may designate a public officer, board, agency, or commission as the agent for service of process on a person, firm, or corporation in Florida.¹ The Chief Financial Officer (CFO) is designated as the agent for service of process on insurers and other specific entities or persons licensed by the Department of Financial Services (DFS) and the Office of Insurance Regulation (OIR).² Service of process on the CFO is made by mail or personal service³ and plaintiffs are required to pay the DFS a \$15 fee which is deposited into the Administrative Trust Fund.⁴ Once the service of process is received, the CFO retains a record copy in paper or electronic form and promptly forwards the process documents to the defendant's designated agent by registered or certified mail.⁵ In lieu of sending the process by registered or certified mail, the CFO may send the process by "any other verifiable means."⁶ The language "any other verifiable means" is not defined in statute but, Florida case law has interpreted it to include electronic delivery.⁷

Effect of Proposed Changes - Service of Process (sections 1, 9, 10, 11, and 12)

The bill amends s. 48.151(3), F.S., to authorize the DFS to create an Internet-based system to accept service of process documents by electronic transmission for serving the CFO, his or her assistant or deputy, or another person in charge of the office as the agent for *licensed* and *unauthorized* insurers. The purpose of the Internet-based system is to save consumers time and money serving process on the CFO by eliminating the need to copy, package, and mail documents or by eliminating the cost of personal service. The system's electronic transmission should eliminate the 3-7 day period for document delivery through the mail and the 3-7 day period for the DFS to send back a proof of service through the mail.

The bill also modifies several sections of ch. 624, F.S., to provide regulations related to the use of the Internet-based system and other clarifications to service of process. The modified sections of ch. 624, F.S., currently only apply to licensed insurers; however, the bill incorporates "unauthorized insurers" into these sections.

After the CFO receives service of process, he or she may send it by registered or certified mail, or by any other verifiable means to the person to receive the process. The bill modifies these options to permit the process to be sent or made available by any other verifiable means, including by not limited to, making the documents available by electronic transmission from a secure website established by the DFS. If the documents are made available electronically, the CFO is required to send a notice of receipt of service of process to the person last designated by the regulated person or unauthorized insurer to receive legal process. The notice must state the date and manner in which the copy of the process was made available and contain the uniform resource locator for a hyperlink to obtain a copy of the process.

¹ s. 48.151, F.S.

² The CFO also serves as the agent for service of process to all licensed nonresident insurance agents, all nonresident disability insurance agents licensed pursuant to s. 626.835, F.S., domestic reciprocal insurers, fraternal benefit societies under Ch. 632, F.S., warrant associations under Ch. 636, F.S., and persons required to file statements under s. 628.461, F.S.

³ s. 48.151, F.S.

⁴ s. 624.502, F.S.

⁵ s. 624.423(1), F.S.

⁶ s. 624.307, F.S.

⁷ See *Campbell v. Metropolitan Life Ins. Co.*, No. 2:12-cv-616-Ftm-99SPC, 2013 WL 461872, at *1 (M.D. Fla.); *Dunn v. Prudential Ins. Co. of America*, No. 8:10-cv-1626-T-24-TGW, 2011 WL 52867, at *1-2 (M.D. Fla.); *Johnson v. USAA Cas. Ins. Co.*, 900 F. Supp.2d 1310, 1314 fn. 1 (M.D. Fla. 2012).

The bill adds a fee of \$25 for service of process to an unauthorized insurer. Currently, the procedures for personal service of process on an insurer or person representing or aiding an unauthorized insurer require delivering the service to the CFO or some person in apparent charge of his or her office. The bill adds the assistant or deputy of the CFO or another person in charge of the office as authorized recipients of the service. The bill also requires payment of the newly created \$25 fee.

Current Situation - Alternative Retirement Income Security Program

The DFS provides an alternative retirement income security program for eligible temporary and seasonal employees of the state who are compensated from appropriations for other personal services.⁸ The DFS is permitted to contract with a private vendor(s) to administer the program under a defined-contribution plan. The DFS may develop a request for proposals and solicit qualified vendors to compete for the award of the contract. The proposal must comply with all necessary federal and state laws and rules. The program requires the review and approval of the Executive Office of the Governor.

Effect of Proposed Changes - Alternative Retirement Income Security Program (section 2)

The bill removes the requirement that the Executive Office of the Governor review and approve the alternative retirement income security program.

Current Situation - Deferred Compensation Program

The CFO, with approval of the State Board of Administration, is required to establish a deferred compensation plan for state employees under the "Government Employees' Deferred Compensation Act."⁹ A deferred compensation plan is a retirement savings plan that allows eligible employees to supplement any existing retirement and pension benefits by saving and investing before-tax dollars through a tax-deferred voluntary salary contribution.¹⁰ Currently, the statutory language is unclear regarding which government entities are eligible to participate in the plan.

Effect of Proposed Changes - Deferred Compensation Program (section 3)

The bill clarifies that eligibility in the deferred compensation plan shall apply to persons employed by a state university as defined in s. 1000.21(6), F.S.,¹¹ a special district as defined in s. 189.012(6), F.S.,¹² or a water management district as defined in s. 189.012, F.S.¹³ The bill authorizes the CFO to adopt any rule necessary to administer and implement the deferred compensation plan with respect to these parties.

⁸ s. 110.1315, F.S.

⁹ s. 112.215(4)(a), F.S.

¹⁰ DEPARTMENT OF FINANCIAL SERVICES, *Florida Deferred Compensation Plan FAQ*, <https://www.myfloridaderferredcomp.com/SOFWeb/plan.aspx> (last visited Jan. 25, 2016).

¹¹ "State university," except as otherwise specifically provided, includes the following institutions and any branch campuses, centers, or other affiliates of the institution:" The University of Florida; The Florida State University; The Florida Agricultural and Mechanical University; The University of South Florida; The Florida Atlantic University; The University of West Florida; The University of Central Florida; The University of North Florida; The Florida International University; The Florida Gulf Coast University; New College of Florida; The Florida Polytechnic University.

¹² "Special district" means a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality."

¹³ "Water management district" for purposes of this chapter means a special taxing district which is a regional water management district created and operated pursuant to chapter 373 or chapter 61-691, Laws of Florida, or a flood control district created and operated pursuant to chapter 25270, Laws of Florida, 1949, as modified by s. 373.149."

Current Situation - Surety Bonds

County Officers: a county officer serving on a board of county commissioners may be required by ordinance to give a surety bond conditioned on the faithful performance of the duties of her or his office.¹⁴ The board of county commissions and the DFS are required to approve each surety bond.¹⁵ This law dates back to 1887, when county officers had to pledge personal property to protect the county in the event that the official embezzled county money or property.¹⁶

Florida Inland Navigation District (FIND) Commissioners: FIND is an independent special district existing under Florida law.¹⁷ The agency head of FIND is a collegial body known as the Board of Commissioners of Florida Inland Navigation District (Board),¹⁸ comprised of one commissioner from each of the following twelve counties along Florida's east coast: Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Martin, Palm Beach, Broward and Miami-Dade.¹⁹ Each commissioner is appointed by the Governor and upon appointment, before assuming office, each commissioner is required to give a surety bond in the sum of \$10,000 payable to the Governor, conditioned upon the faithful performance of the duties of the office.²⁰ The surety bond is approved by and filed with the CFO.²¹

Effect of Proposed Changes - Surety Bonds (sections 4 and 7)

County Officers: the bill removes the requirement that the DFS approve each surety bond issued upon county officers. Only the board of county commissioners shall be required to approve each surety bond. The DFS reports that it has no recent inquiries related to the bonds and believes this statutory section has outlived its usefulness and applicability.²² The Florida Association of Counties reviewed the proposed change and agreed with the DFS, indicating they do not foresee any problems with the change.²³

Florida Inland Navigation District Commissioners: the bill requires that the \$10,000 surety bond provided by Board commissioners be approved by and filed with the Board of Commissioners of FIND, rather than the CFO.

Current Situation - Florida Single Audit Act

The Florida Single Audit Act (FSAA) establishes uniform state audit and accountability requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects.²⁴ The FSAA is intended to closely parallel the Federal Single Audit Act. Under the FSAA, nonstate entities include nonprofit organizations, for-profit organizations, and local government entities.²⁵ The Federal Act does not apply to for-profit organizations. Pursuant to the FSAA, certain nonstate entities that exceed the "audit threshold" are subject to a state single audit or a project specific audit.²⁶ Florida's

¹⁴ s. 137.01, F.S.

¹⁵ s. 137.09, F.S.

¹⁶ Florida Department of Financial Services, Agency Analysis of 2015 House Bill 651, p. 1-2 (Jan. 1, 2016).

¹⁷ FIND has two primary missions: (1) to perform the functions of the "local sponsor" of the Atlantic Intracoastal Waterway project and a portion of the Okeechobee Waterway project in Florida, both of which are State/Federal navigation projects, and (2) provide assistance to other governments to develop waterway access and improvement projects. THE FLORIDA INLAND NAVIGATION DISTRICT, *Our Mission Statement*, <http://www.aicw.org/mission.jsp> (last visited Jan. 25, 2016).

¹⁸ *Id.*

¹⁹ s. 374.983(2), F.S.

²⁰ *Id.*

²¹ *Id.*

²² Florida Department of Financial Services, Agency Analysis of 2015 House Bill 651, p. 4 (Jan. 1, 2016).

²³ Email from Laura Youmans, Esq., Legislative Associate, Florida Association of Counties, RE: County Surety Bonds (Oct. 22, 2015).

²⁴ s. 215.97, F.S.

²⁵ s. 215.97(2)(m), F.S.

²⁶ s. 215.97(2)(a), F.S.

“audit threshold” is triggered when a nonstate entity spends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year.²⁷

On December 13, 2013, the Federal Office of Management and Budget (OMB) issued a rule to amend the Federal Single Audit requirements to strengthen oversight and focus audits where there is the greatest risk of waste, fraud, and abuse of taxpayer dollars.²⁸ OMB increased their “audit threshold” from \$500,000 to \$750,000 such that any state, local government, or nonprofit entity that receives and spends an amount equal to or in excess of \$750,000 in federal awards is subject to a single audit.²⁹ Entities that receive state financial assistance typically also receive federal grant awards and must therefore comply with the Federal and State audit requirements. The FSAA provides that every two years, the threshold amount shall be reviewed and may be adjusted in order to be consistent with the purposes of the s. 215.97, F.S.³⁰

Effect of Proposed Changes - Florida Single Audit Act (section 5)

The bill amends the FSAA to more closely conform to the Federal Single Audit Act, including the following changes:

- Amends the definition of “audit threshold” to raise the amount a nonstate entity must expend from \$500,000 to \$750,000 of state financial assistance in any fiscal year to be subject to a state single audit or project-specific audit;
- Clarifies the application of the FSAA to higher education entities:
 - Creates a definition for “higher education entity” which means a Florida College System institution or a state university;
 - Amends the definition of “nonstate entity” to include “higher education entity”; and
 - Exempts higher education entities from the audit threshold provisions and from the audit requirements, while continuing to subject them to the remaining provisions, including contracting and record keeping requirements.
- Clarifies requirements of the FSAA when a higher education entity acts only as a conduit of state financial assistance to a subrecipient.

Current Situation – Color Photographic or Digital Image Licenses

The Department of Highway Safety and Motor Vehicles maintains a digital record of digital photographs of licenses and signatures pursuant to s. 322.142, F.S. These photographs and signatures (and other data required for identification and retrieval) are exempt from public disclosure but may be shared with various state agencies to assist the agencies with their duties. The DFS can obtain such photographs to facilitate the validation of unclaimed property claims and the identification of false or fraudulent claims. The DFS is unable to obtain these photographs for the investigation of alleged violations of the Florida Insurance Code,³¹ which often makes it difficult for an investigator to document and confirm the identity of the alleged violator.³²

Effect of Proposed Changes – Color Photographic or Digital Image Licenses (Section 6)

The bill authorizes the DFS to access the digital photographs of licenses from the Department of Highway Safety and Motor Vehicles’ digital records to investigate alleged violations of the insurance code by licensees and unlicensed persons. The DFS indicates this bill will help their investigative efforts

²⁷ *Id.*

²⁸ FEDERAL REGISTER, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards> (last visited Jan. 5, 2016).

²⁹ *Id.*

³⁰ *Id.*

³¹ s. 624.01, F.S., states that chs. 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the “Florida Insurance Code.”

³² Florida Department of Financial Services, Agency Analysis of 2015 Senate Bill 992, p. 6 (Jan. 12, 2016).

to accurately confirm an accused's identity.³³ Additionally, the DFS indicates that the ability to authenticate signatures on documents with the accused's legally authenticated signature will be an invaluable tool in its investigative efforts.³⁴

Current Situation – Safety Regulations in Public Lodging Establishments

The DFS regulates "boiler" safety pursuant to ch. 554, F.S.,³⁵ the "Boiler Safety Act." Every enclosed space or room that contains a "boiler" and that is located in any portion of a public lodging establishment that also contains sleeping rooms must be equipped with one or more carbon monoxide sensor devices that bear the label of a nationally recognized testing laboratory and complies with the most recent Underwriters Laboratories, Inc., Standard 2034, or its equivalent. Such devices must be integrated with the public lodging establishment's fire detection system, in accordance with rules adopted by the Division of State Fire Marshal (DSFM). A carbon monoxide sensor is not necessary if the DFS, acting through the DSFM, determines that carbon monoxide hazards have been adequately mitigated.

Effect of Proposed Changes – Safety Regulations in Public Lodging Establishments (Section 8)

The bill removes the requirement that a carbon monoxide detector bear the label of a nationally recognized testing laboratory. The bill requires that carbon monoxide detectors bear a certification mark from a testing and certification organization accredited in accordance with ISO/IEC Guide 65, General Requirements for Bodies Operating Product Certification Systems and that have been tested and listed as complying with the most recent Underwriters Laboratories Standard 2075, or its equivalent.

The exception to this requirement, i.e., when the DSFM determines that carbon monoxide hazards have been adequately mitigated, is removed from statute.

Current Situation – Eligibility for Export of Commercial Residential Property Insurance

Commercial residential property insurance provides coverage for condominium associations, homeowner associations, continuing care retirement communities, and apartment complexes. When this insurance coverage cannot be procured from an authorized insurer, such coverage may be procured from an unauthorized insurer subject to several conditions. Two relevant conditions are (1) the insurance must be eligible for "export" under s. 626.916, F.S., and (2) the insurer must be an "eligible surplus lines insurer."

To "export" insurance "means to place, in an unauthorized insurer under this Surplus Lines Law, insurance covering a subject of insurance resident, located, or to be performed in this state."³⁶ An "eligible surplus lines insurer" means an unauthorized insurer which has been made eligible by the Florida Surplus Lines Service Office to issue insurance coverage under Surplus Lines law.³⁷

In order for insurance coverage to be eligible for export, certain statutory conditions must be met.³⁸ In general, the conditions prevent an eligible surplus lines insurer, which is subject to substantially less regulation than an admitted carrier, from offering policies with terms and conditions that are more favorable than can be offered by an admitted insurer. An agent is required to determine that the insurance is not available from a company currently writing in the state and limits any amount that may be exported to the amount in excess of the amount that can be procured in the state. The agent must

³³ *Id.*

³⁴ *Id.*

³⁵ A "'boiler' is a closed vessel in which water or other liquid is heated, steam or vapor is generated, steam is superheated, or any combination of these functions is accomplished, under pressure or vacuum, for use external to itself, by the direct application of energy from the combustion of fuels or from electric or solar energy." s. 554.1021(1), F.S.

³⁶ s. 626.914, F.S.

³⁷ *Id.*

³⁸ s. 626.916(1), F.S.

document that he or she has made a “diligent effort” to procure the coverage from an admitted insurer. “Diligent effort” is defined as seeking and being denied coverage from at least three authorized insurers in the admitted market, unless the cost to replace the property insured is \$1 million or more. In that case, diligent effort is seeking and being denied coverage from at least one authorized insurer in the admitted market.³⁹ Therefore, a consumer is prohibited from inquiring what coverage is available in the surplus lines market until a diligent effort has been made to procure coverage from an admitted insurer.

Additionally, premium rates, policy or contract forms, and deductible amounts for an exported policy may not be more favorable than those offered by a majority of authorized insurers in the state.

Effect of Proposed Changes – Eligibility for Export of Commercial Residential Property Insurance (Section 13)

The bill exempts commercial residential property insurance from the export eligibility conditions in s. 626.916, F.S. Consequently, commercial residential property insurance coverage may be exported to a surplus lines carrier without meeting the conditions related to diligent efforts to procure coverage from an admitted carrier, comparability of premiums, policy contents, and deductibility. The bill may result in surplus lines carriers having a competitive advantage over admitted carriers offering commercial residential property insurance coverage due to the reduced regulations that surplus lines carriers are subject to versus admitted carriers.

Current Situation – Florida Surplus Lines Service Officers

The Florida Surplus Lines Service Office (Office) is a self-regulating, nonprofit association of approved unauthorized insurers, established by the Legislature in 1997. The Office was created to protect consumers seeking surplus-line insurance in the state, monitor marketplace compliance, and protect state revenues.⁴⁰ All licensed surplus line agents are deemed members of the Office. The Office operates under the supervision of a nine-member board of governors, which has oversight responsibilities for the Florida surplus lines market. The board consists of:

- Five individuals appointed by the DFS from the regular membership of the Florida Surplus Lines Association;
- Two individuals appointed by the DFS, one from each of the two largest domestic agents’ associations, each of whom is a licensed surplus lines agent;
- The Insurance Consumer Advocate; and
- One individual appointed by the DFS, who shall be a risk manager for a large domestic commercial enterprise.

Each board member serves a 3-year term, staggered such that a number of appointments expire annually.

Effect of Proposed Changes – Florida Surplus Lines Service Officers (Section 14)

The bill amends the appointment procedure for the five individuals appointed by the DFS from the regular membership of the Florida Surplus Lines Association. The bill requires that the DFS appoint members from a pool of five nominees chosen by the association.

Current Situation - Neutral Evaluation for Sinkhole Insurance Claims

Florida’s neutral evaluator program is an alternative process for resolving sinkhole insurance claims disputes. The DFS administers the program and is required to certify engineers and geologists to serve as neutral evaluators. A neutral evaluator is a fair and impartial third party selected mutually by a

³⁹ See s. 626.914, F.S.

⁴⁰ See s. 626.921, F.S. and FLORIDA SURPLUS LINES SERVICE OFFICE, *About*, <https://www.fslo.com/about> (last visited Jan. 26, 2016).

policyholder and insurer, and is an engineer licensed under ch. 471, F.S., who has experience and expertise in the identification of sinkhole activity as well as other potential causes of structural damage.⁴¹ Following the report or a denial of a claim, the insurer must inform the policyholder, in writing, of their right to participate in the neutral evaluation program and must include an informational pamphlet prepared by the DFS.⁴² The neutral evaluation program is mandatory once requested by either party. The insurer must pay all costs associated with the program.⁴³ At the conclusion of the neutral evaluation, the neutral evaluator prepares a report stating whether the sinkhole loss has been verified or invalidated.⁴⁴

Upon receipt of a request for neutral evaluation, the DFS is required to provide the parties with a list of certified neutral evaluators.⁴⁵ The policyholder and insurer may submit requests to the DFS to disqualify neutral evaluators for cause. Cause is based on any of the following grounds:

- 1) A familial relationship within the third degree exists between the neutral evaluator and either party or a representative of either party;
- 2) The proposed neutral evaluator has, in a professional capacity, previously represented either party or a representative of either party in the same or a substantially related matter;
- 3) The proposed neutral evaluator has, in a professional capacity, represented another person in the same or a substantially related matter and that person's interests are materially adverse to the interests of the parties; or
- 4) The neutral evaluator has worked as an employer or employee of any party to the case in the preceding 5 years.

Effect of Proposed Changes - Neutral Evaluation for Sinkhole Insurance Claims (section 15)

The bill adds an additional basis for the DFS to disqualify a proposed neutral evaluator for cause at the request of a party. A proposed neutral evaluator may be disqualified for cause if, within the preceding 5 years, the neutral evaluator worked for the company or firm that performed the initial testing to determine the presence or absence of sinkhole loss or other causes of damage to the property in question.

Current Situation – Exemption from Disqualification from Licensure or Certification

An individual is disqualified from obtaining any class of firefighter certification or licensure if such individual has committed a felony or a crime punishable by imprisonment of 1 year or more, or has been dishonorably discharged from the United States Armed Forces.⁴⁶ Current law does not provide the DFS with the discretion to grant disqualified individuals an exemption from disqualification.

Effect of Proposed Changes – Exemption from Disqualification from Licensure or Certification (Section 17)

The bill creates s. 633.107, F.S., establishing discretionary standards whereby the DFS may exempt an applicant convicted of a felony or dishonorably discharged from the United States Armed Forces from disqualification from licensure or certification. Two primary requirements must be met:

- 1) The applicant must have paid in full any cost imposed by a court as part of the judgment and sentence for the disqualifying offense; and
 - a. A minimum of 5 years have elapsed since the applicant completed or was lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense; or

⁴¹ s. 627.706(2)(c), F.S.

⁴² s. 627.7074(3), F.S.

⁴³ s. 627.7074(6), F.S.

⁴⁴ s. 627.7074(12), F.S.

⁴⁵ s. 627.7074(7), F.S.

⁴⁶ ss. 633.412 and 633.408, F.S.

- b. A minimum of 5 years have elapsed since the applicant was dishonorably discharged from the United States Armed Forces.
- 2) The applicant must clearly and convincingly demonstrate to the DFS that she or he does not pose a risk to persons or property if permitted to be licensed or certified. The bill provides for the types of evidence that may be presented by the applicant.

The DFS retains discretion to grant an exemption and such decisions must be made in writing. The DFS' decisions are subject to proceedings under ch. 120, F.S.

An exemption applicant that has received executive clemency or a pardon is not subject to the time limitations noted above. Applicants that receive an executive clemency are required to comply with the second requirement above. The DFS is not required to award the exemption. The DSFM has rulemaking authority to adopt rules to administer this section.

Current Situation – Firefighter Assistance Grant Program

Volunteer firefighters comprise about 69 percent of firefighters in the United States.⁴⁷ Since 1984, the number of volunteer firefighters has declined by about 12 percent, from 897,750 to 786,150.⁴⁸ Factors contributing to the decline in volunteer firefighters include increased time demands and costs for training coupled with potential volunteers that work multiple jobs in two-income families.⁴⁹ The situation is no different in Florida, where nearly 12 million residents depend on volunteer firefighters to protect their communities,⁵⁰ yet many volunteer and combination fire departments⁵¹ report fiscal constraints in acquiring the training and equipment that is needed to perform their duties while still meeting the required minimum safety levels.⁵²

The Florida Fire College, in conjunction with corporate sponsors, hosts the annual Northwest Volunteer Firefighter Weekend (NVFW). The event provides volunteer firefighters with free training and equipment. The DFS reports that attendees consistently report that if not for the NVFW, they would not have the resources to take the proper training courses and to acquire the proper equipment to perform their duties because many volunteer and combination fire departments rely on donations to fund a large part of their operations.⁵³ Additionally, the DSFM, through its statutory authority to perform safety inspections of fire departments, constantly reports compliance issues with training and equipment due to a lack of fiscal resources.⁵⁴

Effect of Proposed Changes – Firefighter Assistance Grant Program (Section 18)

The bill creates s. 633.135, F.S., the Firefighter Assistance Grant Program (Program), within the DSFM, to improve the emergency response capabilities of volunteer fire departments and combination fire departments. The Program's stated goal is to improve firefighter safety and enable fire departments to provide firefighting, emergency medical, and rescue services to their communities.

The Program will annually award financial assistance to aid such fire departments in providing firefighter training to individuals to obtain a Volunteer Firefighter Certificate of Completion and procuring the necessary equipment for the firefighter and fire department. On average, the cost to train and equip

⁴⁷ NATIONAL VOLUNTEER FIREFIGHTER COUNCIL, *Fire Service Statistics and Fact Sheets*, <http://www.nvfc.org/hot-topics/statistics-and-fact-sheets> (last visited Jan. 26, 2016).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ FLORIDA'S CHIEF FINANCIAL OFFICER, *Florida Volunteer Firefighter Information*, <http://www.myfloridacfo.com/Division/sfm/VOLFF/default.htm> (last visited Jan. 26, 2016).

⁵¹ A "combination fire department" means a fire department composed of a combination of career and volunteer firefighters.

⁵² Email from B.G. Murphy, Deputy Legislative Affairs Director, Florida Department of Financial Services, RE: FFAG – Talking Points (Jan. 22, 2015).

⁵³ *Id.*

⁵⁴ *Id.*

a volunteer firefighter with personal protective equipment is about \$27,095 and the cost of fire engine pump apparatus equipment can range \$150,000 - \$400,000.⁵⁵ Grants will be awarded based on the annual Florida Fire Service Needs Assessment Survey and priority will be given to fire departments in counties with populations of 75,000 or less.

The DSFM is given rulemaking authority to adopt rules and procedures for the Program that require grant recipients to:

- Report their activity to the DSFM for submission in the Fire and Emergency Incident Information Reporting System;
- Annually complete and submit the Florida Fire Service Needs Assessment Survey to the DSFM;
- Comply with the Florida Firefighters Occupational Safety and Health Act;
- Comply with any other rule determined by the DSFM to effectively and efficiently implement, administer, and manage the Program; and
- Meet the definition of a “fire service provider” in s. 633.102, F.S.

The bill does not contain an appropriation to fund the program

Current Situation - Minimum Firesafety Standards

The Life Safety Code (LSC), which is contained in the Florida Fire Prevention Code (FFPC), provides minimum fire safety requirements, with due regard to function, for the design, operation, and maintenance of buildings and structures. The LSC does not apply to one-family and two-family dwellings; however, the current statutory language could be misconstrued to suggest that the LSC does apply to “newly constructed” one-family and two-family dwellings.

Effect of Proposed Changes - Minimum Firesafety Standards (section 19)

The bill removes “newly constructed” from the statute to clarify that the LSC does not apply to existing or newly constructed one-family and two-family dwellings.

Current Situation - Firefighter Certification

Chapter 633, F.S., governs state law on fire prevention and control. The CFO is designated as the State Fire Marshall, operating through the DSFM,⁵⁶ and tasked with regulating “fire service providers.” The DSFM is responsible for establishing, by rule, a Minimum Standards Course as the training and educational curriculum of firefighters and volunteers firefighters. A Firefighter is defined as an individual who holds a current and valid Firefighter Certificate of Compliance (FCOC) or Special Certificate of Compliance issued by the DSFM. A FCOC is issued by the DSFM to an individual who does all of the following:

1. Satisfactorily completes the Minimum Standards Course or training in another state determined by the DSFM to be, at a minimum, the equivalent of the training required for the Minimum Standards Course;
2. Passes the Minimum Standards Course examination; and
3. Meets the character and fitness requirements set forth in s. 633.412, F.S.

The DFS has reported that many applicants wait a year or longer to take the Minimum Standards Course examination after completion of the course, resulting in a high rate of failure and the need to re-take the course.⁵⁷

⁵⁵ *Id.*

⁵⁶ s. 633.104, F.S

⁵⁷ Florida Department of Financial Services, Agency Analysis of 2015 House Bill 651, p. 5 (Jan. 1, 2016).

“Certification” or “certified” is defined as the act of holding a current and valid certificate.⁵⁸ If evidence is found to demonstrate that certification was improperly issued, such as issuance on the basis of false or misleading information, an individual’s certification may be suspended or revoked by the DSFM. In such a case, the DSFM must suspend or revoke all other certificates issued to the individual by the DSFM.

In order for a firefighter to retain/renew her or his FCOC, every 4 years she or he must:

- Be active as a firefighter;
- Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the DSFM, which proof must be registered in an electronic database designated by the DSFM;
- Successfully complete a refresher course consisting of a minimum of 40 hours of training to be prescribed by rule; or
- Within 6 months before the 4-year period expires, successfully retake and pass the Minimum Standards Course examination.⁵⁹

Currently, there are no separate renewal requirements for a fire service instructor.

Effect of Proposed Changes - Firefighter Certification (sections 16, 20, 21, 22, and 23)

The bill redefines “fire service provider” to include ‘the DSFM’ which houses and employs over 140 firefighters. This change will permit the DSFM’s firefighters to be classified as active firefighters in accordance with statute.

The bill repeals the mandatory requirement of a suspension or revocation of all other certifications issued to an individual following the suspension or revocation of an individual’s certificate.

The bill requires the Minimum Standards Course examination to be taken and passed within 12 months of completing the Minimum Standards Course. The bill clarifies that a FCOC or Volunteer Firefighter Certificate of Completion will expire 4 years after the date of issuance unless renewed.

The bill amends the certification renewal requirements for firefighters. In order to retain an FCOC, every 4 years a firefighter must meet the requirements provided under ch. 633, F.S., and by rule, which must include at least one of the following:

- Be active as a firefighter;
- Maintain a current and valid fire service instructor certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the DSFM, which proof must be registered in an electronic database designated by the DSFM;
- Within 6 months before the 4-year period expires, successfully complete a Firefighter Retention Refresher Course; or
- Within 6 months before the 4-year period expires, successfully retake and pass the Minimum Standards Course examination.

Additionally, the State Fire Marshall is provided grounds to deny, refuse to renew, suspend, or revoke the certificate of an individual.

The definition of “certification” or “certified” is amended to mean the act of holding a current and valid certificate that meets the requirements for renewal of certification pursuant to ch. 633, F.S., and by rule.

⁵⁸ s. 633.426(1)(b), F.S.

⁵⁹ s. 633.414(1), F.S.

B. SECTION DIRECTORY:

Section 1: amends s. 48.151, F.S., authorizing the creation of an Internet-based system for the electronic acceptance of service of process documents.

Section 2: amends s. 110.1315, F.S., eliminating the requirement for the Executive Office of the Governor to review and approve the alternative retirement income security program.

Section 3: amends s. 112.215, F.S., relating to government employees; deferred compensation.

Section 4: amends s. 137.09, F.S., eliminating the DFS's duty to approve county officer surety bonds.

Section 5: amends s. 215.97, F.S., revising the Florida Single Audit Act to more closely parallel the Federal Single Audit Act.

Section 6: amends s. 322.142, F.S., relating to color photographic or digital imaged licenses.

Section 7: amends s. 374.983, F.S., eliminating the requirement that surety bonds for FIND commissioners be approved by and filed with the CFO.

Section 8: amends s.509.211, F.S., relating to safety regulations in public lodging establishments.

Section 9: amends s. 624.307, F.S., relating to general powers; duties.

Section 10: amends s. 624.423, F.S., authorizing service of process to be served on the CFO electronically.

Section 11: amends s. 624.502, F.S., specifying the applicable fees due by a plaintiff serving process on the CFO.

Section 12: amends s. 626.907, F.S., permitting service of process to be made to the CFO's assistant or deputy and requiring a defendant's last known principal place of business to be provided by the party serving process documents.

Section 13: amends s. 626.916, F.S., relating to eligibility of export for commercial residential property insurance.

Section 14: amends s. 626.921, F.S., relating to the Florida Surplus Lines Service Office.

Section 15: amends s. 627.7074, F.S., adding a new cause for disqualifying a neutral evaluator.

Section 16: amends s. 633.102, F.S., relating to the definition of "fire service provider."

Section 17: creates s. 633.107, F.S., relating to the exemption from disqualification from licensure or certification.

Section 18: creates s. 633.135, F.S., relating to the Firefighter Assistance Grant Program.

Section 19: amends s. 633.208, F.S., clarifying that the Life Safety Code does not apply to one-and two-family dwellings.

Section 20: amends s. 633.408, F.S., relating to firefighter and volunteer firefighter training and certification.

Section 21: amends s. 633.412, F.S., relating to firefighters; qualifications for certification.

Section 22: amends s. 633.414, F.S., relating to retention of firefighter, volunteer firefighter, and fire investigator certificates.

Section 23: amends s. 633.426, F.S., relating to disciplinary action; standards for revocation of certification.

Section 24: providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has an indeterminate, yet likely insignificant positive fiscal impact on revenues deposited into the Administrative Trust Fund within the Department of Financial Services (DFS). Specifically, the bill adds a fee of \$25 for service of process on an unauthorized insurer. The DFS indicates that the fee will cover the cost of sending certified mail to deliver the notice of service of process to unauthorized insurers.⁶⁰ These cases take more time to review, handle, package, and ship the documents than currently required for authorized insurers. Requests for service of process on unauthorized insurers are not routine, and the volume is minimal. During the previous calendar year, 18 services of process cases were served.

2. Expenditures:

The bill will have a significant negative fiscal impact on state trust fund expenditures from the Insurance Regulatory Trust Fund (IRTF) within the DFS. Specifically, the bill provides for the creation and administration of the Firefighter Assistance Grant Program within the DFS. This program is intended to provide financial assistance for volunteer and combination fire departments, in the form of grants, to acquire additional training and equipment. The DFS Fiscal Year 2016-2017 Legislative Budget Request (LBR) included an issue requesting 1.00 Full-time equivalent position and \$579,165 in recurring funds from the IRTF to implement the program.

The DFS indicates there could be potential expenditure savings associated with implementing the internet-based system for service of process documents. Specifically, the DFS estimates a savings of \$54,500 associated with a reduction in postage, printing, and the elimination of current IT support as a result of implementing the new system. Additionally, the DFS estimates that 2-3 OPS positions will be eliminated due to the proposed Internet-based system.⁶¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Internet-based system for service of process may save money for consumers by eliminating the need to print, package, and mail service of process documents or by saving the cost of personal service.

C. FISCAL COMMENTS:

None.

⁶⁰ Email correspondence with The Department of Financial Services (Jan. 28, 2016) on file with the Government Operations Appropriations Subcommittee.

⁶¹ Florida Department of Financial Services, Agency Analysis of 2015 House Bill 651, p. 7 (Jan. 27, 2016).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Section 13 of the bill, relating to eligibility for export of commercial residential property insurance, may implicate the constitutional single subject rule pursuant to article III, section 6 of the Florida Constitution, which states “[e]very law shall embrace but one subject and matter properly connected therewith....” Each section of this bill, except for section 13, affects the duties and obligations of the DFS. Section 13, on the other hand, does not direct the DFS to act in any way, nor does it affect the duties and obligations of the DFS.

B. RULE-MAKING AUTHORITY:

Section 17 provides the Division of State Fire Marshal (DSFM) with rulemaking authority to adopt rules to administer the procedures pertaining to exempting applicants from certain disqualifying conditions from firefighter licensure or certification.

Section 18 provides the DSFM with rulemaking authority to adopt rules and procedures for the Firefighter Assistance Grant Program.

Section 22 of the bill provides that the DSFM may establish certificate retention requirements by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 19, 2016, the Insurance & Banking Subcommittee adopted a proposed strike-all amendment and reported the bill favorably as a committee substitute. The strike-all:

- Amended the deferred compensation program by removing the updated definition of “employee,” removing the newly defined term “governmental entity,” and clarifying that the program applies to state employees, and may include persons employed by a state university, a special district, or a water management district.
- Revised the Florida Single Audit Act to restore applicability to “for-profit organizations.”
- Amended newly added s. 322.142, F.S., to authorize the DFS to access the digital image of a driver’s license for purposes of the investigation of an alleged violation of the insurance code.
- Amended newly added s. 509.211, F.S., concerning carbon monoxide detector regulations in public lodging establishments.
- Clarified language regarding the Internet-based system for the electronic transmission of service of process documents.
- Amended newly added s. 626.916, F.S., exempting commercial residential property insurance from conditions required before insurance coverage may be eligible for export to surplus lines.
- Removed s. 627.706, F.S., from the bill.
- Amended newly added s. 626.921, F.S., revising the procedure for appointing the board of governors of the Florida Surplus Lines Association.

- Amended the definition of “fire service provider.”
- Created s. 633.107, F.S., providing exemption provisions from the disqualification of firefighter licensure or certification.
- Created s. 633.135, F.S., establishing the Firefighter Assistance Grant Program.
- Clarified language regarding firefighter and volunteer firefighter certification, certification retention, and revocation of certification.
- Repealed subsection (2) of 633.412, F.S.

The staff analysis is drafted to reflect the committee substitute.

1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 48.151, F.S.; authorizing the
 4 department to create an Internet-based transmission
 5 system to accept service of process; amending s.
 6 110.1315, F.S.; removing a requirement that the
 7 Executive Office of the Governor review and approve a
 8 certain alternative retirement income security program
 9 provided by the department; amending s. 112.215, F.S.;
 10 authorizing the Chief Financial Officer, with the
 11 approval of the State Board of Administration, to
 12 include specified employees other than state employees
 13 in a deferred compensation plan; conforming a
 14 provision to a change made by the act; amending s.
 15 137.09, F.S.; removing a requirement that the
 16 department approve certain bonds of county officers;
 17 amending s. 215.97, F.S.; revising and providing
 18 definitions; increasing the amount of a certain audit
 19 threshold; revising applicability to remove for-profit
 20 organizations; exempting specified higher education
 21 entities from certain audit requirements; revising the
 22 requirements for state-funded contracts or agreements
 23 between a state awarding agency and a higher education
 24 entity; providing an exception; providing
 25 applicability; conforming provisions to changes made
 26 by the act; amending s. 322.142, F.S.; authorizing the

27 | Department of Highway Safety and Motor Vehicles to
 28 | provide certain driver license images to the
 29 | department for the purpose of investigating
 30 | allegations of violations of the insurance code;
 31 | amending s. 374.983, F.S.; naming the Board of
 32 | Commissioners of the Florida Inland Navigation
 33 | District, rather than the Chief Financial Officer, as
 34 | the entity that receives and approves certain surety
 35 | bonds of commissioners; amending s. 509.211, F.S.;
 36 | revising certain standards for carbon monoxide
 37 | detector devices in specified spaces or rooms of
 38 | public lodging establishments; deleting a provision
 39 | authorizing the State Fire Marshal of the department
 40 | to exempt a device from such standards; amending s.
 41 | 624.307, F.S.; conforming provisions to changes made
 42 | by the act; specifying requirements for the Chief
 43 | Financial Officer in providing notice of electronic
 44 | transmission of process documents; amending s.
 45 | 624.423, F.S.; authorizing service of process by
 46 | specified means; reenacting and amending s. 624.502,
 47 | F.S.; specifying fees to be paid by a party requesting
 48 | service to the department or Office of Insurance
 49 | Regulation for certain service of process on
 50 | authorized and unauthorized insurers; amending s.
 51 | 626.907, F.S.; requiring a service of process fee for
 52 | certain service of process made by the Chief Financial

53 Officer; revising methods by which copies of the
 54 service of process may be provided to a defendant;
 55 specifying the determination of a defendant's last
 56 known principal place of business; amending s.
 57 626.916, F.S.; revising applicability of certain
 58 provisions relating to insurance coverage eligibility
 59 for export under the Surplus Lines Law; amending s.
 60 626.921, F.S.; revising membership requirements of the
 61 Florida Surplus Lines Service Office board of
 62 governors; amending s. 627.7074, F.S.; providing an
 63 additional ground for disqualifying a neutral
 64 evaluator for disputed sinkhole insurance claims;
 65 amending s. 633.102, F.S.; redefining the term "fire
 66 service provider"; creating s. 633.107, F.S.;
 67 authorizing the department to grant exemptions from
 68 disqualification for licensure or certification by the
 69 Division of State Fire Marshal under certain
 70 circumstances; specifying the information an applicant
 71 must provide; providing the manner in which the
 72 department must render its decision to grant or deny
 73 an exemption; providing procedures for an applicant to
 74 contest the decision; providing an exception from
 75 certain requirements; authorizing the division to
 76 adopt rules; creating s. 633.135, F.S.; establishing
 77 the Firefighter Assistance Program for certain
 78 purposes; requiring the division to administer the

79 | program and annually award grants to qualifying fire
 80 | departments; defining the term "combination fire
 81 | department"; providing eligibility requirements;
 82 | requiring the State Fire Marshal to adopt rules and
 83 | procedures; providing program requirements; amending
 84 | s. 633.208, F.S.; revising applicability of the Life
 85 | Safety Code to exclude one-family and two-family
 86 | dwellings, rather than only such dwellings that are
 87 | newly constructed; amending s. 633.408, F.S.; revising
 88 | firefighter and volunteer firefighter certification
 89 | requirements; specifying the duration of certain
 90 | firefighter certifications; amending s. 633.412, F.S.;
 91 | deleting a requirement that the division suspend or
 92 | revoke all issued certificates if an individual's
 93 | certificate is suspended or revoked; amending s.
 94 | 633.414, F.S.; conforming provisions to changes made
 95 | by the act; revising alternative requirements for
 96 | renewing specified certifications; providing grounds
 97 | for denial of, or disciplinary action against,
 98 | certifications for a firefighter or volunteer
 99 | firefighter; amending s. 633.426, F.S.; revising a
 100 | definition; providing a date after which an individual
 101 | is subject to revocation of certification under
 102 | specified circumstances; providing an effective date.

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

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Section 1. Subsection (3) of section 48.151, Florida Statutes, is amended to read:

48.151 Service on statutory agents for certain persons.—

(3) The Chief Financial Officer or his or her assistant or deputy or another person in charge of the office is the agent for service of process on all insurers applying for authority to transact insurance in this state, all licensed nonresident insurance agents, all nonresident disability insurance agents licensed pursuant to s. 626.835, any unauthorized insurer under s. 626.906 or s. 626.937, domestic reciprocal insurers, fraternal benefit societies under chapter 632, warranty associations under chapter 634, prepaid limited health service organizations under chapter 636, and persons required to file statements under s. 628.461. As an alternative to service of process made by mail or personal service on the Chief Financial Officer, on his or her assistant or deputy, or on another person in charge of the office, the Department of Financial Services may create an Internet-based transmission system to accept service of process by electronic transmission of documents.

Section 2. Subsection (1) of section 110.1315, Florida Statutes, is amended to read:

110.1315 Alternative retirement benefits; other-personal-services employees.—

(1) ~~Upon review and approval by the Executive Office of the Governor,~~ The Department of Financial Services shall provide

131 an alternative retirement income security program for eligible
 132 temporary and seasonal employees of the state who are
 133 compensated from appropriations for other personal services. The
 134 Department of Financial Services may contract with a private
 135 vendor or vendors to administer the program under a defined-
 136 contribution plan under ss. 401(a) and 403(b) or s. 457 of the
 137 Internal Revenue Code, and the program must provide retirement
 138 benefits as required under s. 3121(b)(7)(F) of the Internal
 139 Revenue Code. The Department of Financial Services may develop a
 140 request for proposals and solicit qualified vendors to compete
 141 for the award of the contract. A vendor shall be selected on the
 142 basis of the plan that best serves the interest of the
 143 participating employees and the state. The proposal must comply
 144 with all necessary federal and state laws and rules.

145 Section 3. Paragraph (a) of subsection (4) and subsection
 146 (12) of section 112.215, Florida Statutes, are amended to read:
 147 112.215 Government employees; deferred compensation
 148 program.—

149 (4) (a) The Chief Financial Officer, with the approval of
 150 the State Board of Administration, shall establish such plan or
 151 plans of deferred compensation for state employees and may
 152 include persons employed by a state university as defined in s.
 153 1000.21, a special district as defined in s. 189.012, or a water
 154 management district as defined in s. 189.012, including all such
 155 investment vehicles or products incident thereto, as may be
 156 available through, or offered by, qualified companies or

157 persons, and may approve one or more such plans for
 158 implementation by and on behalf of the state and its agencies
 159 and employees.

160 (12) The Chief Financial Officer may adopt any rule
 161 necessary to administer and implement this act with respect to
 162 deferred compensation plans for state employees and persons
 163 employed by a state university as defined in s. 1000.21, a
 164 special district as defined in s. 189.012, or a water management
 165 district as defined in s. 189.012.

166 Section 4. Section 137.09, Florida Statutes, is amended to
 167 read:

168 137.09 Justification and approval of bonds.—Each surety
 169 upon every bond of any county officer shall make affidavit that
 170 he or she is a resident of the county for which the officer is
 171 to be commissioned, and that he or she has sufficient visible
 172 property therein unencumbered and not exempt from sale under
 173 legal process to make good his or her bond. Every such bond
 174 shall be approved by the board of county commissioners ~~and by~~
 175 ~~the Department of Financial Services~~ when the board is ~~they and~~
 176 ~~it are~~ satisfied in its ~~their~~ judgment that the bond ~~same~~ is
 177 legal, sufficient, and proper to be approved.

178 Section 5. Paragraphs (h) through (y) of subsection (2) of
 179 section 215.97, Florida Statutes, are redesignated as paragraphs
 180 (i) through (z), respectively, a new paragraph (h) is added to
 181 that subsection, present paragraphs (a), (m), and (v) of that
 182 subsection and paragraph (o) of subsection (8) are amended,

183 subsections (9), (10), and (11) are renumbered as subsections
 184 (10), (11), and (12), respectively, and a new subsection (9) is
 185 added to that section, to read:

186 215.97 Florida Single Audit Act.—

187 (2) ~~Definitions~~; As used in this section, the term:

188 (a) "Audit threshold" means the threshold amount used to
 189 determine when a state single audit or project-specific audit of
 190 a nonstate entity shall be conducted in accordance with this
 191 section. Each nonstate entity that expends a total amount of
 192 state financial assistance equal to or in excess of \$750,000
 193 ~~\$500,000~~ in any fiscal year of such nonstate entity shall be
 194 required to have a state single audit, or a project-specific
 195 audit, for such fiscal year in accordance with the requirements
 196 of this section. Every 2 years the Auditor General, after
 197 consulting with the Executive Office of the Governor, the
 198 Department of Financial Services, and all state awarding
 199 agencies, shall review the threshold amount for requiring audits
 200 under this section and may adjust such threshold amount
 201 consistent with the purposes of this section.

202 (h) "Higher education entity" means a Florida College
 203 System institution or a state university, as those terms are
 204 defined in s. 1000.21.

205 (n) ~~(m)~~ "Nonstate entity" means a local governmental
 206 entity, higher education entity, nonprofit organization, or for-
 207 profit organization that receives state financial assistance.

208 (w) ~~(v)~~ "State project-specific audit" means an audit of

209 one state project performed in accordance with the requirements
 210 of subsection (11) ~~(10)~~.

211 (8) Each recipient or subrecipient of state financial
 212 assistance shall comply with the following:

213 (o) A higher education entity is exempt from the
 214 requirements of paragraph (2)(a) and this subsection ~~A contract~~
 215 ~~involving the State University System or the Florida College~~
 216 ~~System funded by state financial assistance may be in the form~~
 217 ~~of:~~

218 1. ~~A fixed-price contract that entitles the provider to~~
 219 ~~receive full compensation for the fixed contract amount upon~~
 220 ~~completion of all contract deliverables;~~

221 2. ~~A fixed-rate-per-unit contract that entitles the~~
 222 ~~provider to receive compensation for each contract deliverable~~
 223 ~~provided;~~

224 3. ~~A cost-reimbursable contract that entitles the provider~~
 225 ~~to receive compensation for actual allowable costs incurred in~~
 226 ~~performing contract deliverables; or~~

227 4. ~~A combination of the contract forms described in~~
 228 ~~subparagraphs 1., 2., and 3.~~

229 (9) This subsection applies to any contract or agreement
 230 between a state awarding agency and a higher education entity
 231 that is funded by state financial assistance.

232 (a) The contract or agreement must comply with ss.
 233 215.971(1) and 216.3475 and must be in the form of one or a
 234 combination of the following:

235 1. A fixed-price contract that entitles the provider to
 236 receive compensation for the fixed contract amount upon
 237 completion of all contract deliverables.

238 2. A fixed-rate-per-unit contract that entitles the
 239 provider to receive compensation for each contract deliverable
 240 provided.

241 3. A cost-reimbursable contract that entitles the provider
 242 to receive compensation for actual allowable costs incurred in
 243 performing contract deliverables.

244 (b) If a higher education entity has extremely limited or
 245 no required activities related to the administration of a state
 246 project and acts only as a conduit of state financial
 247 assistance, none of the requirements of this section apply to
 248 the conduit higher education entity. However, the subrecipient
 249 that is provided state financial assistance by the conduit
 250 higher education entity is subject to the requirements of
 251 subsection (8) and this subsection.

252 (c) Regardless of the amount of the state financial
 253 assistance, this subsection does not exempt a higher education
 254 entity from compliance with provisions of law that relate to
 255 maintaining records concerning state financial assistance to the
 256 higher education entity or that allow access and examination of
 257 those records by the state awarding agency, the higher education
 258 entity, the Department of Financial Services, or the Auditor
 259 General.

260 (d) This subsection does not prohibit the state awarding

261 | agency from including terms and conditions in the contract or
 262 | agreement which require additional assurances that the state
 263 | financial assistance meets the applicable requirements of laws,
 264 | regulations, and other compliance rules.

265 | Section 6. Paragraph (j) of subsection (4) of section
 266 | 322.142, Florida Statutes, is amended to read:

267 | 322.142 Color photographic or digital imaged licenses.—

268 | (4) The department may maintain a film negative or print
 269 | file. The department shall maintain a record of the digital
 270 | image and signature of the licensees, together with other data
 271 | required by the department for identification and retrieval.
 272 | Reproductions from the file or digital record are exempt from
 273 | the provisions of s. 119.07(1) and may be made and issued only:

274 | (j) To the Department of Financial Services pursuant to an
 275 | interagency agreement to facilitate the location of owners of
 276 | unclaimed property, the validation of unclaimed property claims,
 277 | ~~and~~ the identification of fraudulent or false claims, and the
 278 | investigation of allegations of violations of the insurance code
 279 | by licensees and unlicensed persons;

280 | Section 7. Subsection (2) of section 374.983, Florida
 281 | Statutes, is amended to read:

282 | 374.983 Governing body.—

283 | (2) The present board of commissioners of the district
 284 | shall continue to hold office until their respective terms shall
 285 | expire. Thereafter the members of the board shall continue to be
 286 | appointed by the Governor for a term of 4 years and until their

287 successors shall be duly appointed. Specifically, commencing on
 288 January 10, 1997, the Governor shall appoint the commissioners
 289 from Broward, Indian River, Martin, St. Johns, and Volusia
 290 Counties and on January 10, 1999, the Governor shall appoint the
 291 commissioners from Brevard, Miami-Dade, Duval, Flagler, Palm
 292 Beach, and St. Lucie Counties. The Governor shall appoint the
 293 commissioner from Nassau County for an initial term that
 294 coincides with the period remaining in the current terms of the
 295 commissioners from Broward, Indian River, Martin, St. Johns, and
 296 Volusia Counties. Thereafter, the commissioner from Nassau
 297 County shall be appointed to a 4-year term. Each new appointee
 298 must be confirmed by the Senate. Whenever a vacancy occurs among
 299 the commissioners, the person appointed to fill such vacancy
 300 shall hold office for the unexpired portion of the term of the
 301 commissioner whose place he or she is selected to fill. Each
 302 commissioner under this act before he or she assumes office
 303 shall be required to give a good and sufficient surety bond in
 304 the sum of \$10,000 payable to the Governor and his or her
 305 successors in office, conditioned upon the faithful performance
 306 of the duties of his or her office, such bond to be approved by
 307 and filed with the board of commissioners of the district ~~Chief~~
 308 ~~Financial Officer~~. Any and all premiums upon such surety bonds
 309 shall be paid by the board of commissioners of such district as
 310 a necessary expense of the district.

311 Section 8. Subsection (4) of section 509.211, Florida
 312 Statutes, is amended to read:

313 509.211 Safety regulations.--
 314 (4) Every enclosed space or room that contains a boiler
 315 regulated under chapter 554 which is fired by the direct
 316 application of energy from the combustion of fuels and that is
 317 located in any portion of a public lodging establishment that
 318 also contains sleeping rooms shall be equipped with one or more
 319 carbon monoxide detector ~~sensor~~ devices that bear the
 320 certification mark from a testing and certification organization
 321 accredited in accordance with ISO/IEC Guide 65, General
 322 Requirements for Bodies Operating Product Certification Systems,
 323 ~~label of a nationally recognized testing laboratory and that~~
 324 have been tested and listed as complying with the most recent
 325 Underwriters Laboratories, Inc., Standard 2075 ~~2034~~, or its
 326 equivalent, ~~unless it is determined that carbon monoxide hazards~~
 327 ~~have otherwise been adequately mitigated as determined by the~~
 328 ~~Division of State Fire Marshal of the Department of Financial~~
 329 ~~Services.~~ Such devices shall be integrated with the public
 330 lodging establishment's fire detection system. Any such
 331 installation or determination shall be made in accordance with
 332 rules adopted by the Division of State Fire Marshal.
 333 Section 9. Subsection (9) of section 624.307, Florida
 334 Statutes, is amended to read:
 335 624.307 General powers; duties.--
 336 (9) Upon receiving service of legal process issued in any
 337 civil action or proceeding in this state against any regulated
 338 person or any unauthorized insurer under s. 626.906 or s.

339 | 626.937 which is required to appoint the Chief Financial Officer
 340 | as its attorney to receive service of all legal process, the
 341 | Chief Financial Officer, as attorney, may, in lieu of sending
 342 | the process by registered or certified mail, send the process or
 343 | make it available by any other verifiable means, including, but
 344 | not limited to, making the documents available by electronic
 345 | transmission from a secure website established by the department
 346 | to the person last designated by the regulated person or the
 347 | unauthorized insurer to receive the process. When process
 348 | documents are made available electronically, the Chief Financial
 349 | Officer shall send a notice of receipt of service of process to
 350 | the person last designated by the regulated person or
 351 | unauthorized insurer to receive legal process. The notice must
 352 | state the date and manner in which the copy of the process was
 353 | made available to the regulated person or unauthorized insurer
 354 | being served and contain the uniform resource locator (URL) for
 355 | a hyperlink to access files and information on the department's
 356 | website to obtain a copy of the process.

357 | Section 10. Section 624.423, Florida Statutes, is amended
 358 | to read:

359 | 624.423 Serving process.—

360 | (1) Service of process upon the Chief Financial Officer as
 361 | process agent of the insurer ~~under s. 624.422 and s. 626.937~~
 362 | shall be made by serving a copy of the process upon the Chief
 363 | Financial Officer or upon her or his assistant, deputy, or other
 364 | person in charge of her or his office. Service may also be made

365 by mail or electronically as provided in s. 48.151. Upon
 366 receiving such service, the Chief Financial Officer shall retain
 367 a record copy and promptly forward one copy of the process by
 368 registered or certified mail or by other verifiable means, as
 369 provided under s. 624.307(9), to the person last designated by
 370 the insurer to receive the same, as provided under s.
 371 624.422(2). For purposes of this section, records may be
 372 retained as paper or electronic copies.

373 (2) If ~~where~~ process is served upon the Chief Financial
 374 Officer as an insurer's process agent, the insurer is ~~shall~~ not
 375 ~~be~~ required to answer or plead except within 20 days after the
 376 date upon which the Chief Financial Officer sends or makes
 377 available by other verifiable means ~~mailed~~ a copy of the process
 378 served upon her or him as required by subsection (1).

379 (3) Process served upon the Chief Financial Officer and
 380 sent or made available in accordance with this section and s.
 381 624.307(9) ~~copy thereof forwarded as in this section provided~~
 382 shall for all purposes constitute valid and binding service
 383 thereof upon the insurer.

384 Section 11. Notwithstanding the expiration date in section
 385 41 of chapter 2015-222, Laws of Florida, section 624.502,
 386 Florida Statutes, as amended by chapter 2013-41, Laws of
 387 Florida, is reenacted and amended to read:

388 624.502 Service of process fee.—In all instances as
 389 provided in any section of the insurance code and s. 48.151(3)
 390 in which service of process is authorized to be made upon the

391 Chief Financial Officer or the director of the office, the party
 392 requesting service ~~plaintiff~~ shall pay to the department or
 393 office a fee of \$15 for such service of process on an authorized
 394 insurer or \$25 for such service of process on an unauthorized
 395 insurer, which fee shall be deposited into the Administrative
 396 Trust Fund.

397 Section 12. Subsection (1) of section 626.907, Florida
 398 Statutes, is amended to read:

399 626.907 Service of process; judgment by default.-

400 (1) Service of process upon an insurer or person
 401 representing or aiding such insurer pursuant to s. 626.906 shall
 402 be made by delivering to and leaving with the Chief Financial
 403 Officer, his or her assistant or deputy, or another person in
 404 charge of the ~~or some person in apparent charge of his or her~~
 405 office two copies thereof and the service of process fee as
 406 required in s. 624.502. The Chief Financial Officer shall
 407 forthwith mail by registered mail, commercial carrier, or any
 408 verifiable means one of the copies of such process to the
 409 defendant at the defendant's last known principal place of
 410 business as provided by the party submitting the documents and
 411 shall keep a record of all process so served upon him or her.
 412 The service of process is sufficient, provided notice of such
 413 service and a copy of the process are sent within 10 days
 414 thereafter by registered mail by plaintiff or plaintiff's
 415 attorney to the defendant at the defendant's last known
 416 principal place of business, and the defendant's receipt, or

417 receipt issued by the post office with which the letter is
 418 registered, showing the name of the sender of the letter and the
 419 name and address of the person to whom the letter is addressed,
 420 and the affidavit of the plaintiff or plaintiff's attorney
 421 showing a compliance herewith are filed with the clerk of the
 422 court in which the action is pending on or before the date the
 423 defendant is required to appear, or within such further time as
 424 the court may allow.

425 Section 13. Paragraph (b) of subsection (3) of section
 426 626.916, Florida Statutes, is amended to read:

427 626.916 Eligibility for export.-

428 (3)

429 (b) Paragraphs (1)(a)-(d) do not apply to commercial
 430 residential property insurance or to classes of insurance which
 431 are subject to s. 627.062(3)(d)1. These classes may be
 432 exportable under the following conditions:

- 433 1. The insurance must be placed only by or through a
 434 surplus lines agent licensed in this state;
- 435 2. The insurer must be made eligible under s. 626.918; and
- 436 3. The insured must sign a disclosure that substantially
 437 provides the following: "You are agreeing to place coverage in
 438 the surplus lines market. Superior coverage may be available in
 439 the admitted market and at a lesser cost. Persons insured by
 440 surplus lines carriers are not protected under the Florida
 441 Insurance Guaranty Act with respect to any right of recovery for
 442 the obligation of an insolvent unlicensed insurer." If the

443 notice is signed by the insured, the insured is presumed to have
 444 been informed and to know that other coverage may be available,
 445 and, with respect to the diligent-effort requirement under
 446 subsection (1), there is no liability on the part of, and no
 447 cause of action arises against, the retail agent presenting the
 448 form.

449 Section 14. Paragraph (a) of subsection (4) of section
 450 626.921, Florida Statutes, is amended to read:

451 626.921 Florida Surplus Lines Service Office.—

452 (4) The association shall operate under the supervision of
 453 a board of governors consisting of:

454 (a) Five individuals nominated by the Florida Surplus
 455 Lines Association and appointed by the department from the
 456 regular membership of the Florida Surplus Lines Association.

457
 458 Each board member shall be appointed to serve beginning on the
 459 date designated by the plan of operation and shall serve at the
 460 pleasure of the department for a 3-year term, such term
 461 initially to be staggered by the plan of operation so that three
 462 appointments expire in 1 year, three appointments expire in 2
 463 years, and three appointments expire in 3 years. Members may be
 464 reappointed for subsequent terms. The board of governors shall
 465 elect such officers as may be provided in the plan of operation.

466 Section 15. Paragraph (a) of subsection (7) of section
 467 627.7074, Florida Statutes, is amended to read:

468 627.7074 Alternative procedure for resolution of disputed

469 | sinkhole insurance claims.-

470 | (7) Upon receipt of a request for neutral evaluation, the
 471 | department shall provide the parties a list of certified neutral
 472 | evaluators. The department shall allow the parties to submit
 473 | requests to disqualify evaluators on the list for cause.

474 | (a) The department shall disqualify neutral evaluators for
 475 | cause based only on any of the following grounds:

476 | 1. A familial relationship within the third degree exists
 477 | between the neutral evaluator and either party or a
 478 | representative of either party.

479 | 2. The proposed neutral evaluator has, in a professional
 480 | capacity, previously represented either party or a
 481 | representative of either party in the same or a substantially
 482 | related matter.

483 | 3. The proposed neutral evaluator has, in a professional
 484 | capacity, represented another person in the same or a
 485 | substantially related matter and that person's interests are
 486 | materially adverse to the interests of the parties. The term
 487 | "substantially related matter" means participation by the
 488 | neutral evaluator on the same claim, property, or adjacent
 489 | property.

490 | 4. The proposed neutral evaluator has, within the
 491 | preceding 5 years, worked as an employer or employee of any
 492 | party to the case.

493 | 5. The proposed neutral evaluator has, within the
 494 | preceding 5 years, worked for any entity that performed any

495 sinkhole loss testing, review, or analysis for the property.

496 Section 16. Subsection (13) of section 633.102, Florida
 497 Statutes, is amended to read:

498 633.102 Definitions.—As used in this chapter, the term:

499 (13) "Fire service provider" means a municipality or
 500 county, the state, the division, or any political subdivision of
 501 the state, including authorities and special districts, that
 502 employs ~~employing~~ firefighters or uses ~~utilizing~~ volunteer
 503 firefighters to provide fire extinguishment or fire prevention
 504 services for the protection of life and property. The term
 505 includes any organization under contract or other agreement with
 506 such entity to provide such services.

507 Section 17. Section 633.107, Florida Statutes, is created
 508 to read:

509 633.107 Exemption from disqualification from licensure or
 510 certification.—

511 (1) The department may grant an exemption from
 512 disqualification to any person disqualified from licensure or
 513 certification by the Division of State Fire Marshal under this
 514 chapter because of a criminal record or dishonorable discharge
 515 from the United States Armed Forces if the applicant has paid in
 516 full any fee, fine, fund, lien, civil judgment, restitution,
 517 cost of prosecution, or trust contribution imposed by the court
 518 as part of the judgment and sentence for any disqualifying
 519 offense and:

520 (a) At least 5 years have elapsed since the applicant

521 completed or has been lawfully released from confinement,
 522 supervision, or nonmonetary condition imposed by the court for a
 523 disqualifying offense; or

524 (b) At least 5 years have elapsed since the applicant was
 525 dishonorably discharged from the United States Armed Forces.

526 (2) For the department to grant an exemption, the
 527 applicant must clearly and convincingly demonstrate that he or
 528 she would not pose a risk to persons or property if permitted to
 529 be licensed or certified under this chapter, evidence of which
 530 must include, but need not be limited to, facts and
 531 circumstances surrounding the disqualifying offense, the time
 532 that has elapsed since the offense, the nature of the offense
 533 and harm caused to the victim, the applicant's history before
 534 and after the offense, and any other evidence or circumstances
 535 indicating that the applicant will not present a danger if
 536 permitted to be licensed or certified.

537 (3) The department has discretion whether to grant or deny
 538 an exemption. The department shall provide its decision in
 539 writing which, if the exemption is denied, must state with
 540 particularity the reasons for denial. The department's decision
 541 is subject to proceedings under chapter 120, except that a
 542 formal proceeding under s. 120.57(1) is available only if there
 543 are disputed issues of material fact that the department relied
 544 upon in reaching its decision.

545 (4) An applicant may request an exemption, notwithstanding
 546 the time limitations of paragraphs (1)(a) and (b), if by

547 executive clemency his or her civil rights are restored, or he
 548 or she receives a pardon, from the disqualifying offense. The
 549 fact that the applicant receives executive clemency does not
 550 alleviate his or her obligation to comply with subsection (2) or
 551 in itself require the department to award the exemption.

552 (5) The division may adopt rules to administer this
 553 section.

554 Section 18. Section 633.135, Florida Statutes, is created
 555 to read:

556 633.135 Firefighter Assistance Grant Program.—

557 (1) The Firefighter Assistance Grant Program is created
 558 within the division to improve the emergency response capability
 559 of volunteer fire departments and combination fire departments.
 560 The program shall provide financial assistance to improve
 561 firefighter safety and enable such fire departments to provide
 562 firefighting, emergency medical, and rescue services to their
 563 communities. For purposes of this section, the term "combination
 564 fire department" means a fire department composed of a
 565 combination of career and volunteer firefighters.

566 (2) The division shall administer the program and annually
 567 award grants to volunteer fire departments and combination fire
 568 departments using the annual Florida Fire Service Needs
 569 Assessment Survey. The purpose of the grants is to assist such
 570 fire departments in providing volunteer firefighter training and
 571 procuring necessary firefighter personal protective equipment,
 572 self-contained breathing apparatus equipment, and fire engine

573 | pumper apparatus equipment. However, the division shall
 574 | prioritize the annual award of grants to such fire departments
 575 | in a county having a population of 75,000 or less.

576 | (3) The State Fire Marshal shall adopt rules and
 577 | procedures for the program that require grant recipients to:

578 | (a) Report their activity to the division for submission
 579 | in the Fire and Emergency Incident Information Reporting System
 580 | created pursuant to s. 633.136;

581 | (b) Annually complete and submit the Florida Fire Service
 582 | Needs Assessment Survey to the division;

583 | (c) Comply with the Florida Firefighters Occupational
 584 | Safety and Health Act, ss. 633.502-633.536;

585 | (d) Comply with any other rule determined by the State
 586 | Fire Marshal to effectively and efficiently implement,
 587 | administer, and manage the program; and

588 | (e) Meet the definition of the term "fire service
 589 | provider" in s. 633.102.

590 | (4) Funds shall be used to:

591 | (a) Provide firefighter training to individuals to obtain
 592 | a Volunteer Firefighter Certificate of Completion pursuant to s.
 593 | 633.408. Training must be provided at no cost to the fire
 594 | department or student by a division-approved instructor and must
 595 | be documented in the division's electronic database.

596 | (b) Purchase firefighter personal protective equipment,
 597 | including structural firefighting protective ensembles and
 598 | individual ensemble elements such as garments, helmets, gloves,

599 | and footwear, that complies with NFPA No. 1851, "Standard on
 600 | Selection, Care, and Maintenance of Protective Ensembles for
 601 | Structural Fire Fighting and Proximity Fire Fighting," by the
 602 | National Fire Protection Association.

603 | (c) Purchase self-contained breathing apparatus equipment
 604 | that complies with NFPA No. 1852, "Standard on Selection, Care,
 605 | and Maintenance of Open-Circuit Self-Contained Breathing
 606 | Apparatus."

607 | (d) Purchase fire engine pumper apparatus equipment. Funds
 608 | provided under this paragraph may be used to purchase the
 609 | equipment or subsidize a federal grant from the Federal
 610 | Emergency Management Agency to purchase the equipment.

611 | Section 19. Subsection (8) of section 633.208, Florida
 612 | Statutes, is amended to read:

613 | 633.208 Minimum firesafety standards.—

614 | (8) The provisions of the Life Safety Code, as contained
 615 | in the Florida Fire Prevention Code, do not apply to ~~newly~~
 616 | ~~constructed~~ one-family and two-family dwellings. However, fire
 617 | sprinkler protection may be permitted by local government in
 618 | lieu of other fire protection-related development requirements
 619 | for such structures. While local governments may adopt fire
 620 | sprinkler requirements for one- and two-family dwellings under
 621 | this subsection, it is the intent of the Legislature that the
 622 | economic consequences of the fire sprinkler mandate on home
 623 | owners be studied before the enactment of such a requirement.
 624 | After the effective date of this act, any local government that

625 | desires to adopt a fire sprinkler requirement on one- or two-
 626 | family dwellings must prepare an economic cost and benefit
 627 | report that analyzes the application of fire sprinklers to one-
 628 | or two-family dwellings or any proposed residential subdivision.
 629 | The report must consider the tradeoffs and specific cost savings
 630 | and benefits of fire sprinklers for future owners of property.
 631 | The report must include an assessment of the cost savings from
 632 | any reduced or eliminated impact fees if applicable, the
 633 | reduction in special fire district tax, insurance fees, and
 634 | other taxes or fees imposed, and the waiver of certain
 635 | infrastructure requirements including the reduction of roadway
 636 | widths, the reduction of water line sizes, increased fire
 637 | hydrant spacing, increased dead-end roadway length, and a
 638 | reduction in cul-de-sac sizes relative to the costs from fire
 639 | sprinkling. A failure to prepare an economic report shall result
 640 | in the invalidation of the fire sprinkler requirement to any
 641 | one- or two-family dwelling or any proposed subdivision. In
 642 | addition, a local jurisdiction or utility may not charge any
 643 | additional fee, above what is charged to a non-fire sprinklered
 644 | dwelling, on the basis that a one- or two-family dwelling unit
 645 | is protected by a fire sprinkler system.

646 | Section 20. Paragraph (b) of subsection (4) and subsection
 647 | (8) of section 633.408, Florida Statutes, are amended, and
 648 | subsection (9) is added to that section, to read:

649 | 633.408 Firefighter and volunteer firefighter training and
 650 | certification.—

651 (4) The division shall issue a firefighter certificate of
 652 compliance to an individual who does all of the following:

653 (b) Passes the Minimum Standards Course examination within
 654 12 months after completing the required courses.

655 (8) (a) Pursuant to s. 590.02(1)(e), the division shall
 656 establish a structural fire training program of not less than
 657 206 hours. The division shall issue to a person satisfactorily
 658 complying with this training program and who has successfully
 659 passed an examination as prescribed by the division and who has
 660 met the requirements of s. 590.02(1)(e), a Forestry Certificate
 661 of Compliance.

662 (b) An individual who holds a current and valid Forestry
 663 Certificate of Compliance is entitled to the same rights,
 664 privileges, and benefits provided for by law as a firefighter.

665 (9) A Firefighter Certificate of Compliance or a Volunteer
 666 Firefighter Certificate of Completion issued under this section
 667 expires 4 years after the date of issuance unless renewed as
 668 provided in s. 633.414.

669 Section 21. Subsection (2) of section 633.412, Florida
 670 Statutes, is amended to read:

671 633.412 Firefighters; qualifications for certification.—

672 ~~(2) If the division suspends or revokes an individual's~~
 673 ~~certificate, the division must suspend or revoke all other~~
 674 ~~certificates issued to the individual by the division pursuant~~
 675 ~~to this part.~~

676 Section 22. Section 633.414, Florida Statutes, is amended

677 to read:

678 633.414 Retention of firefighter, volunteer firefighter,
679 and fire investigator certifications ~~certification.~~-

680 (1) In order for a firefighter to retain her or his
681 Firefighter Certificate of Compliance, every 4 years he or she
682 must meet the requirements for renewal provided in this chapter
683 and by rule, which must include at least one of the following:

684 (a) Be active as a firefighter. ~~†~~

685 (b) Maintain a current and valid fire service instructor
686 certificate, instruct at least 40 hours during the 4-year
687 period, and provide proof of such instruction to the division,
688 which proof must be registered in an electronic database
689 designated by the division. ~~†~~

690 (c) Within 6 months before the 4-year period expires,
691 successfully complete a Firefighter Retention Refresher Course
692 consisting of a minimum of 40 hours of training to be prescribed
693 by rule. ~~† or~~

694 (d) Within 6 months before the 4-year period expires,
695 successfully retake and pass the Minimum Standards Course
696 examination pursuant to s. 633.408.

697 (2) In order for a volunteer firefighter to retain her or
698 his Volunteer Firefighter Certificate of Completion, every 4
699 years he or she must:

700 (a) Be active as a volunteer firefighter; or

701 (b) Successfully complete a refresher course consisting of
702 a minimum of 40 hours of training to be prescribed by rule.

703 (3) Subsection (1) does not apply to state-certified
 704 firefighters who are certified and employed full-time, as
 705 determined by the fire service provider, as firesafety
 706 inspectors or fire investigators, regardless of their ~~her or his~~
 707 employment status as firefighters or volunteer firefighters ~~a~~
 708 ~~firefighter~~.

709 (4) For the purposes of this section, the term "active"
 710 means being employed as a firefighter or providing service as a
 711 volunteer firefighter for a cumulative period of 6 months within
 712 a 4-year period.

713 (5) The 4-year period begins upon issuance of the
 714 certificate or separation from employment;

715 ~~(a) If the individual is certified on or after July 1,~~
 716 ~~2013, on the date the certificate is issued or upon termination~~
 717 ~~of employment or service with a fire department.~~

718 ~~(b) If the individual is certified before July 1, 2013, on~~
 719 ~~July 1, 2014, or upon termination of employment or service~~
 720 ~~thereafter.~~

721 (6) A certificate for a firefighter or volunteer
 722 firefighter expires if he or she fails to meet the requirements
 723 of this section.

724 (7) The State Fire Marshal may deny, refuse to renew,
 725 suspend, or revoke the certificate of a firefighter or volunteer
 726 firefighter if the State Fire Marshal finds that any of the
 727 following grounds exists:

728 (a) Any cause for which issuance of a certificate could

729 have been denied if it had then existed and had been known to
 730 the division.

731 (b) A violation of any provision of this chapter or any
 732 rule or order of the State Fire Marshal.

733 (c) Falsification of a record relating to any certificate
 734 issued by the division.

735 Section 23. Subsections (1) and (2) of section 633.426,
 736 Florida Statutes, are amended to read:

737 633.426 Disciplinary action; standards for revocation of
 738 certification.—

739 (1) For purposes of this section, the term:

740 (a) "Certificate" means any of the certificates issued
 741 under s. 633.406.

742 (b) "Certification" or "certified" means ~~the act of~~
 743 holding a certificate that is current and valid and that meets
 744 the requirements for renewal of certification pursuant to this
 745 chapter and the rules adopted under this chapter ~~certificate.~~

746 (c) "Convicted" means a finding of guilt, or the
 747 acceptance of a plea of guilty or nolo contendere, in any
 748 federal or state court or a court in any other country, without
 749 regard to whether a judgment of conviction has been entered by
 750 the court having jurisdiction of the case.

751 (2) Effective July 1, 2013, an individual who holds a
 752 certificate is subject to revocation for any of the following ~~An~~
 753 ~~individual is ineligible to apply for certification if the~~
 754 ~~individual has, at any time, been:~~

755 (a) Conviction ~~Convicted~~ of a misdemeanor relating to the
 756 certification or to perjury or false statements.

757 (b) Conviction ~~Convicted~~ of a felony or a crime punishable
 758 by imprisonment of 1 year or more under the law of the United
 759 States or of any state thereof, or under the law of any other
 760 country.

761 (c) Dishonorable discharge ~~Dishonorably discharged~~ from
 762 any of the Armed Forces of the United States.

763 Section 24. This act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
 2 Appropriations Subcommittee
 3 Representative Beshears offered the following:

Amendment (with title amendment)

Remove line 394 and insert:

insurer or for such service of process on an unauthorized-----
T I T L E A M E N D M E N T

Remove lines 47-50 and insert:

12 F.S.; specifying fees to be paid by a party requesting service
 13 to the department or Office of Insurance Regulation for service
 14 of process; amending s.

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
 2 Appropriations Subcommittee
 3 Representative Beshears offered the following:

Amendment (with title amendment)

6 Between lines 762 and 763, insert:

7 Section 24. For the 2016-2017 fiscal year, the sum of
 8 \$229,165 in recurring funds from the Insurance Regulatory Trust
 9 Fund is appropriated to the Department of Financial Services,
 10 and one full-time equivalent position with associated salary
 11 rate of 50,000 are authorized, for the purpose of implementing
 12 this act.

14 -----
 15 T I T L E A M E N D M E N T



16 Remove line 102 and insert:

Amendment No. 2

17 specified circumstances; providing appropriations; providing an
18 effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 671 Prohibited Property Insurance Practices
SPONSOR(S): Insurance & Banking Subcommittee; Broxson
TIED BILLS: IDEN./SIM. **BILLS:** HB 177, SB 1248

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Peterson	Luczynski
2) Government Operations Appropriations Subcommittee		Keith 	Topp 
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (DBPR), together with the boards, programs, and commissions created within the DBPR, has responsibility for administering the licensing programs of most of the state's regulated non-medical, non-insurance businesses and professionals. Professionals within its jurisdiction include those typically involved in building and construction, as well as other forms of property development, repair, and maintenance. These professionals may engage in services involving property insurance claims.

The bill prohibits activities by licensed professionals that may result in fraudulent or inflated property insurance claims. Specifically, the bill creates new grounds for discipline against a licensee who:

- Gives or receives referral fees or other items of value as an inducement for business that is paid by property insurance proceeds;
- Interprets insurance coverages or duties of the policy, unless the licensee is separately licensed as an adjuster under part VI of ch. 626, F.S.; and
- Fails to give an insured a detailed estimate of the cost of services and materials provided in connection with a property insurance claim before executing the contract authorizing the work.

The bill has a positive, yet indeterminate fiscal impact to revenues deposited into the Professional Regulation Trust Fund within the DBPR. The DBPR estimates that potential costs of implementing the provisions of the bill could range from \$65,927 in FY 2016-17 to \$57,383 in FY 2017-18 and FY 2018-19. However, it is anticipated that the DPBR can implement the enforcement provisions of the bill within existing resources. The bill has no fiscal impact on local governments. The bill likely has a positive, yet indeterminate fiscal impact on the private sector.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Department of Business and Professional Regulation (DBPR) was established in 1993 with the merger of the Department of Business Regulation and the Department of Professional Regulation.¹ The DBPR, together with the boards, programs, and commissions created within the DBPR, has responsibility for administering the licensing programs of most of the state's regulated non-medical, non-insurance businesses and professionals. Professionals within its jurisdiction include, among others, those involved in building and construction, as well as other forms of property development, repair, and maintenance, such as: architects; asbestos contractors; building code administrators and investigators; construction industry contractors (air conditioning, building, general, mechanical, plumbing, roofing, drywall); electrical and alarm system contractors; geologists; home inspectors; and mold-related services.² These professionals may engage in services involving property insurance claims.

Chapter 455, F.S., sets forth general licensing provisions applicable to all professions regulated by the DBPR which supplement specific licensing requirements that may be included within a profession's practice act. For example, part I of ch. 489, F.S., regulates construction contracting and establishes the duties and powers of the Construction Industry Licensing Board (CILB). Section 455.227, F.S., sets forth grounds for discipline, penalties, and enforcement actions applicable to all professions. Section 489.129, F.S., further refines disciplinary proceedings with respect to professions licensed under part of ch. 489 and licensed and regulated by the CILB.

Chapter 455, F.S., does not currently prohibit the offering or receipt of referral fees by licensed professionals.³ Referral fees are not direct costs of a repair covered by an insurance policy. When referral fees are offered and accepted, they may be inflating the cost of claims or creating incentives for filing fraudulent claims. Contractors are currently prohibited in part VI of ch. 626, F.S., from adjusting claims on behalf of an insured, unless they are licensed as a public adjuster.⁴ The Department of Financial Services has authority to administer this prohibition, but does not have authority to take action against the license of a contractor who violates the prohibition. There have been reported incidences of professionals requiring an insured to sign an agreement authorizing work with limited or no detail regarding the scope or cost. This practice puts the consumer at risk of incurring unanticipated costs or authorizing unwanted work for which the consumer could be held liable by the professional.

Effect of the Bill

The bill creates a new section within ch. 455, F.S., which prohibits activities by licensees⁵ that may result in fraudulent or inflated property insurance claims. Specifically, a licensee commits a violation and may be disciplined if the licensee:

- Directly or indirectly offers, delivers, receives, or accepts any compensation, inducement, or reward for the referral of any business for which property insurance proceeds are payable;

¹ Ch. 93-220, Laws of Fla.

² See generally FLORIDA DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION, *Our Businesses and Profession*, <http://www.myfloridalicense.com/dbpr/divisions.html> (last visited Jan. 29, 2016).

³ However, fees may be prohibited by the practice acts of specific professionals. For example, s. 468.8419(1), F.S., prohibits any person from accepting any compensation or other inducement from a mold remediator for the referral of business to the mold remediator.

⁴ s. 626.854(16), F.S.

⁵ Section 455.01(5), F.S., defines "licensee" as "any person issued a permit, registration, certificate, or license by the [DBPR]."

- Interprets or advises an insured regarding coverages or duties under the insured's property insurance policy or adjusts a property insurance claim on behalf of the insured, unless the licensee holds an unencumbered license as a public adjuster pursuant to part VI of ch. 626; and
- Fails to provide an insured with a detailed, itemized estimate of the cost of services and materials to be provided for repairs undertaken pursuant to a property insurance claim before the agreement authorizing such repairs is executed.

B. SECTION DIRECTORY:

Section 1: Creates s. 455.2278, F.S., prohibited property insurance practices.

Section 2: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has a positive, yet indeterminate fiscal impact to revenues deposited into the Professional Regulation Trust Fund within the DBPR due to the collection of fines associated with the enforcement and prosecution of violations under provisions created in the bill.⁶

2. Expenditures:

The DBPR indicates the need for \$57,383 in recurring funds and \$8,544 in nonrecurring funds, \$65,927 in total from the Professional Regulation Trust Fund, and one full-time equivalent position with associated salary rate of 34,464 to enforce provisions created in the bill.⁷ However, based on current staffing vacancies and recent budget reversions (Professional Regulation Program reversions: FY 2014-15 - \$3.5 million; FY 2013-14 - \$3.0 million; and FY 2012-13 - \$2.7 million) it is anticipated that the DPBR can implement the enforcement provisions of the bill within existing appropriations and staffing.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill prohibits activities by licensed professionals that may result in fraudulent or inflated property insurance claims. To the extent that the new enforcement authority reduces these abuses, consumers will benefit from reduced costs for repairs. The cost of claims may be lower and, as a result, insurance premiums may be lower.

⁶ Email correspondence with The Department of Business and Professional Regulation (Jan. 29, 2016) on file with the Government Operations Appropriations Subcommittee.

⁷ *Id.*

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Insurance & Banking Subcommittee adopted a proposed committee substitute (PCS) and one amendment to the PCS and reported the bill favorably as a committee substitute. The amended PCS:

- Moved the new disciplinary standards created by the bill from part VI of ch. 626, F.S., to ch. 455, F.S., which relates to licensees under the jurisdiction of the DBPR.
- Broadened the prohibition on inducements for the referral of business in property insurance claims to cover all licensees regulated by the DBPR and any repairs paid for by property insurance proceeds.
- Broadened the prohibition on interpreting or advising an insured on the scope of coverages under an insurance policy to cover all licensees regulated by the DBPR.
- Removed the reference to the 5-day rescission period.

The staff analysis is drafted to reflect the committee substitute.

CS/HB 671

2016

1 A bill to be entitled
2 An act relating to prohibited property insurance
3 practices; creating s. 455.2278, F.S.; providing
4 grounds for the discipline of licensees of various
5 professions and occupations regulated by the
6 Department of Business and Professional Regulation;
7 providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 455.2278, Florida Statutes, is created
12 to read:

13 455.2278 Prohibited property insurance practices.—A
14 licensee commits a violation for which disciplinary action may
15 be taken pursuant to s. 455.227(2) if the licensee:

16 (1) Directly or indirectly offers, delivers, receives, or
17 accepts any compensation, inducement, or reward for the referral
18 of any business for which property insurance proceeds are
19 payable;

20 (2) Interprets or advises an insured regarding coverages
21 or duties under the insured's property insurance policy or
22 adjusts a property insurance claim on behalf of the insured,
23 unless the licensee holds an unencumbered license as a public
24 adjuster pursuant to part VI of chapter 626. However, the
25 licensee may discuss or explain a bid for construction or repair
26 of covered property with the residential property owner who has

Page 1 of 2

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

hb0671-01-c1

CS/HB 671

2016



27 suffered loss or damage covered by a property insurance policy,
 28 or the insurer of such property, if the licensee is doing so for
 29 the usual and customary fees applicable to the work to be
 30 performed as stated in the contract between the licensee and the
 31 insured; or

32 (3) Fails to provide an insured with a detailed, itemized
 33 estimate of the cost of services and materials to be provided
 34 for repairs undertaken pursuant to a property insurance claim
 35 before the agreement authorizing such repairs is executed.

36 Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1033 Information Technology Security
SPONSOR(S): Government Operations Subcommittee; Artiles
TIED BILLS: HB 1035, CS/HB 1037 **IDEN./SIM. BILLS:** SB 7050

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N, As CS	Toliver	Williamson
2) Government Operations Appropriations Subcommittee		Keith 	Topp 
3) State Affairs Committee			

SUMMARY ANALYSIS

The Agency for State Technology (AST) is administratively housed within the Department of Management Services. The executive director of AST, who serves as the state's chief information officer, is appointed by the governor and confirmed by the Senate. Current law establishes positions within AST and establishes the agency's duties and responsibilities.

The bill requires AST to establish standards and processes consistent with best practices for both information technology (IT) security and cybersecurity. It also requires AST to develop and publish guidelines and processes for an IT security framework for use by state agencies. In part, the guidelines and processes must address completing risk assessments administered by a third party, establishing a computer security incident response team (team), and establishing an IT incident reporting process.

The bill requires the information security manager of each state agency to establish a team to respond to a suspected computer security incident. It also requires each state agency head to conduct a risk assessment administered by a third party by July 31, 2017; conduct IT security and cybersecurity training for new employees; ensure that certain personnel understand their roles and responsibilities; develop notification procedures for reporting IT security incidents and breaches; and improve organizational response activities.

The bill requires the Technology Advisory Council within AST to have at least one member who is a cybersecurity expert.

The bill makes several appropriations to fulfill the requirements and implement the provisions created in the bill. Specifically, for fiscal year 2016-2017, the bill appropriates:

- \$12.0 million in recurring funds from the General Revenue Fund to the AST to implement the act; and
- \$650,000 in nonrecurring funds and \$50,000 in recurring funds from the General Revenue Fund to the AST to conduct training exercises in coordination with the Florida National Guard.

The bill shall take effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Agency for State Technology

In 2014, the Legislature created the Agency for State Technology (AST) within the Department of Management Services (DMS).¹ The executive director of AST, who serves as the state's chief information officer, is appointed by the governor and confirmed by the Senate.² The following positions are established within AST, all of whom are appointed by the executive director:

- Deputy executive director, who serves as the deputy chief information officer;³
- Chief planning officer and six strategic planning coordinators;⁴
- Chief operations officer;⁵
- Chief information security officer;⁶ and
- Chief technology officer.⁷

AST's duties and responsibilities include:

- Developing and publishing information technology (IT) policy for management of the state's IT resources;
- Establishing and publishing IT architecture standards;
- Establishing project management and oversight standards for use by state agencies when implementing IT projects;
- Performing project oversight on all state agency IT projects with a total project cost of \$10 million or more that are funded in the General Appropriations Act or any other law;
- Performing project oversight on any cabinet agency IT project with a total project cost of \$25 million or more and that impacts one or more agencies;
- Providing operational management and oversight of the state data center;
- Recommending additional consolidations of agency data centers or computing facilities into the state data center;
- Identifying opportunities for standardization and consolidation of IT services that support business functions and operations that are common across state agencies;
- Establishing, in collaboration with DMS, best practices for the procurement of IT products in order to reduce costs, increase productivity, or improve services;
- Participating with DMS in evaluating, conducting, and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services;
- Developing standards for IT reports and updates for use by state agencies;
- Assisting state agencies, upon request, in developing IT related legislative budget requests; and
- Conducting annual assessments of state agencies to determine their compliance with all IT standards and guidelines developed and published by AST.⁸

¹ AST is administratively housed within DMS as a separate budget program and is not subject to its control, supervision, or direction.

² Section 20.61(1)(a), F.S.

³ Section 20.61(2)(a), F.S.

⁴ Section 20.61(2)(b), F.S., requires one coordinator to be assigned to each of the following major program areas: health and human services, education, government operations, criminal and civil justice, agriculture and natural resources, and transportation and economic development.

⁵ Section 20.61(2)(c), F.S.

⁶ Section 20.61(2)(d), F.S.

⁷ Section 20.61(2)(e), F.S.

Technology Advisory Council

The Legislature established the Technology Advisory Council (Council) within AST.⁹ The Council is comprised of seven members: four members appointed by the Governor, two of whom must be from the private sector; one member, appointed by each of the President of the Senate and the Speaker of the House of Representatives; and one member appointed jointly by the Cabinet members.¹⁰ The Council considers and makes recommendations to the executive director of AST on matters pertaining to enterprise IT policies, standards, services and architecture.¹¹ The executive director must consult with the Council with regard to executing AST's duties and responsibilities that relate to statewide IT strategic planning and policy.¹²

It is unclear whether a meeting of the Council has convened since its creation.

Information Technology Security Act

The Information Technology Security Act¹³ provides that AST is responsible for establishing standards and processes consistent with generally accepted best practices for IT security and adopting rules that safeguard an agency's data, information, and IT resources to ensure availability, confidentiality, and integrity.¹⁴ In addition, AST must:

- Develop, and annually update, a statewide IT security strategic plan;
- Develop and publish an IT security framework for state agencies;¹⁵
- Collaborate with the Cybercrime Office of the Florida Department of Law Enforcement in providing training for state agency information security managers; and
- Annually review the strategic and operational IT security plans of executive branch agencies.¹⁶

The IT Security Act requires the heads of state agencies to designate an information security manager to administer the IT security program of the state agency.¹⁷ In part, the heads of state agencies are also required to annually submit to AST the state agency's strategic and operational IT security plans; conduct, and update every three years, a comprehensive risk assessment¹⁸ to determine the security threats to the data, information, and IT resources of the state agency; develop, and periodically update, written internal policies and procedures; and ensure that periodic internal audits and evaluations¹⁹ of the agency's IT security program for the data, information, and IT resources of the state agency are conducted.²⁰

⁸ Section 282.0051, F.S.

⁹ Section 20.61(3), F.S.

¹⁰ *Id.*

¹¹ Section 20.61(3)(a), F.S.

¹² Section 20.61(3)(b), F.S.

¹³ Section 282.318, F.S.

¹⁴ Section 282.318(3), F.S.

¹⁵ The term "state agency" is defined to mean any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission. The term does not include university boards of trustees or state universities. Section 282.0041(23), F.S.

¹⁶ Section 282.318(3), F.S.

¹⁷ Section 282.318(4)(a), F.S.

¹⁸ The risk assessment is confidential and exempt from s. 119.07(1), F.S., except that such information shall be available to the Auditor General, the Agency for State Technology, the Cybercrime Office of the Department of Law Enforcement, and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General. Section 282.318(4)(c), F.S.

¹⁹ The results of such audits and evaluations are confidential and exempt from s. 119.07(1), F.S., except that such information must be made available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, the Agency for State Technology, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General. Section 282.318(4)(f), F.S.

²⁰ Section 282.318(4), F.S.

Cybercrime Office within the Florida Department of Law Enforcement

In 2011, the Cybercrime Office (Office) was established within the Florida Department of Law Enforcement (FDLE)²¹ when the Department of Legal Affairs' Cybercrime Office was transferred to FDLE.²² The Office is tasked with:

- Investigating violations of state law pertaining to the sexual exploitation of children, which are facilitated by or connected to the use of any device capable of storing electronic data,²³
- Monitoring state IT resources and providing analysis on IT security, threats, and breaches,²⁴
- Investigating violations of state law pertaining to IT security incidents²⁵ and assisting in incident response and recovery,²⁶
- Providing security awareness training and information to state agency employees concerning cybersecurity, online sexual exploitation of children, and security risks, and the responsibility of employees to comply with policies, standards, guidelines, and operating procedures adopted by AST,²⁷ and
- Consulting with AST in the adoption of rules relating to the IT security provisions in s. 282.318, F.S.²⁸

The Office may collaborate with state agencies to provide IT security awareness training to state agency employees.²⁹ State agencies are required to report IT security incidents and breaches to the Office.³⁰

Florida Center for Cybersecurity

In 2014, the Legislature created the Florida Center for Cybersecurity (Center) within the University of South Florida.³¹ The goals of the Center are to:

- Position Florida as the national leader in cybersecurity and its related workforce through education, research, and community engagement;
- Assist in the creation of jobs in the state's cybersecurity industry and enhance the existing cybersecurity workforce;
- Act as a cooperative facilitator for state business and higher education communities to share cybersecurity knowledge, resources, and training;
- Seek out partnerships with major military installations to assist, when possible, in homeland cybersecurity defense initiatives; and
- Attract cybersecurity companies to the state with an emphasis on defense, finance, health care, transportation, and utility sectors.³²

²¹ Section 943.0415, F.S.

²² FDLE document entitled Florida Department of Law Enforcement Cybercrime Office (on file with the Government Operations Subcommittee).

²³ Section 943.0415(1), F.S.

²⁴ Section 943.0415(2), F.S.

²⁵ The term "incident" is defined to mean a violation or imminent threat of violation, whether such violation is accidental or deliberate, of IT security policies, acceptable use policies, or standard security practices. An imminent threat of violation refers to a situation in which the state agency has a factual basis for believing that a specific incident is about to occur. Section 282.0041(10), F.S.

²⁶ Section 943.0415(3), F.S.

²⁷ Section 943.0415(4), F.S.

²⁸ Section 931.0415(5), F.S.

²⁹ Section 282.318(4)(h), F.S.

³⁰ Section 282.318(4)(d), F.S.

³¹ Section 1004.444(1), F.S.

³² Section 1004.444(2), F.S.

Unified State Plan for Science, Technology, Engineering, and Mathematics (STEM)

The State Board of Education, in consultation with the Board of Governors and the Department of Economic Opportunity, is required to adopt a unified state plan to improve K-20 STEM education and prepare students for high-skill, high-wage, and high-demand employment in STEM and STEM-related fields.³³

Effect of the Bill

The bill requires AST to establish standards and processes consistent with best practices for both IT security and cybersecurity. The bill also requires AST to develop and publish guidelines and processes for an IT security framework for use by state agencies for:

- Completing risk assessments administered by a third party and submitting completed assessments to AST;
- Establishing a computer security incident response team to respond to suspected IT security incidents. It requires an agency's computer security incident response team to convene immediately upon notice of a suspected security incident and to determine the appropriate response, which includes taking action to prevent expansion or recurrence of an incident, mitigating the effects of an incident, and eradicating an incident;
- Establishing an IT security incident reporting process that must include a procedure for notification of AST and the Office. The bill requires the notification procedure to provide for tiered reporting timeframes, with incidents of critical impact reported immediately, incidents of high impact reported within four hours, and incidents of low impact reported within five business days;
- Incorporating lessons learned through detection and response activities into agency incident response plans;
- Providing all agency employees with IT security and cybersecurity awareness education and training within 30 days after commencing employment; and
- Developing and establishing a cutting-edge internship or work-study program in STEM that will produce a more skilled cybersecurity workforce in the state; the program must be a collaborative effort involving negotiations between AST, relevant AST partners, and the Center.

Additionally, the bill requires each agency to:

- Conduct a risk assessment that must be administered by a third party and must be completed by July 31, 2017. Additional risk assessments may be conducted periodically, subject to legislative appropriation;
- Conduct IT security training that specifically includes cybersecurity training within 30 days of an employee commencing employment;
- Ensure that privileged users, third party stakeholders, senior executives, and physical and information security personnel understand their roles and responsibilities;
- Develop notification procedures for reporting IT security incidents and breaches; and
- Improve organizational response activities by incorporating lessons learned from current and previous detection and response activities into response plans.

The bill requires that at least one member of the Technology Advisory Council be a cybersecurity expert.

The bill also provides appropriations for the AST to coordinate and conduct training exercises with the Florida National Guard and implement the other provisions in the bill.

³³ Section 1001.03(17), F.S.
STORAGE NAME: h1033b.GOAS.DOCX
DATE: 1/29/2016

B. SECTION DIRECTORY:

Section 1: amends s. 20.61, F.S., relating to AST.

Section 2: amends s. 282.318, F.S., relating to security of data and information technology.

Section 3: provides appropriations.

Section 4: provides an effective date of July 1, 2016. .

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

For fiscal year 2016-2017, the bill appropriates \$12.0 million in recurring funds from the General Revenue Fund to the AST for the purpose of implementing the act. The bill also appropriates \$650,000 in nonrecurring funds and \$50,000 in recurring funds from the General Revenue Fund to the AST to conduct training exercises in coordination with the Florida National Guard.

In addition, the bill is likely to have a significant, yet indeterminate fiscal impact on state agencies expenditures associated with the creation of computer security incident response teams, and the requirement that state agencies have a third party conduct and submit risk assessments on their behalf to the AST.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Firms providing third party risk assessments to state agencies will see an increase in revenues.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 26, 2016, the Government Operations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified that state agencies must have a third party risk assessment completed by July 31, 2017, and, subject to legislative appropriation, may have additional assessments performed. The bill removed:

- Provisions reassigning certain AST responsibilities to the chief information security officer.
- The authorization for AST to impose a 10 percent service charge upon each state agency for IT projects it oversees.
- The requirement that a public or private entity notify the agency of a security breach affecting 500 or more individuals in the state.
- Duplicative provisions related to cybersecurity training.
- The requirement that the Technology Advisory Council coordinate with the Florida Center for Cybersecurity regarding certain cybersecurity activities, and the requirement that the council coordinate with the State Board of Education on STEM training.

This analysis is drafted to the committee substitute as approved by the Government Operations Subcommittee.

1 A bill to be entitled
 2 An act relating to information technology security;
 3 amending s. 20.61, F.S.; revising the membership of
 4 the Technology Advisory Council to include a
 5 cybersecurity expert; amending s. 282.318, F.S.;
 6 revising the duties of the Agency for State
 7 Technology; providing for administration of a third
 8 party risk assessment; providing for the establishment
 9 of computer security incident response teams within
 10 state agencies; providing for continuously updated
 11 agency incident response plans; providing for
 12 information technology security and cybersecurity
 13 awareness training; providing for the establishment of
 14 a collaborative STEM program for cybersecurity
 15 workforce development; establishing computer security
 16 incident response team responsibilities; requiring a
 17 third party risk assessment; establishing notification
 18 procedures and reporting timelines for an information
 19 technology security incident or breach; providing
 20 appropriations; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Subsection (3) of section 20.61, Florida
 25 Statutes, is amended to read:
 26 20.61 Agency for State Technology.—The Agency for State

27 Technology is created within the Department of Management
 28 Services. The agency is a separate budget program and is not
 29 subject to control, supervision, or direction by the Department
 30 of Management Services, including, but not limited to,
 31 purchasing, transactions involving real or personal property,
 32 personnel, or budgetary matters.

33 (3) The Technology Advisory Council, consisting of seven
 34 members, is established within the Agency for State Technology
 35 and shall be maintained pursuant to s. 20.052. At least one
 36 member must be a cybersecurity expert. Four members ~~of the~~
 37 ~~council~~ shall be appointed by the Governor, two of whom must be
 38 from the private sector. The President of the Senate and the
 39 Speaker of the House of Representatives shall each appoint one
 40 member ~~of the council~~. The Attorney General, the Commissioner of
 41 Agriculture and Consumer Services, and the Chief Financial
 42 Officer shall jointly appoint one member by agreement of a
 43 majority of these officers. Upon initial establishment of the
 44 council, two of the Governor's appointments shall be for 2-year
 45 terms. Thereafter, all appointments shall be for 4-year terms.

46 (a) The council shall consider and make recommendations to
 47 the executive director on such matters as enterprise information
 48 technology policies, standards, services, and architecture. The
 49 council may also identify and recommend opportunities for the
 50 establishment of public-private partnerships when considering
 51 technology infrastructure and services in order to accelerate
 52 project delivery and provide a source of new or increased

53 project funding.

54 (b) The executive director shall consult with the council
 55 with regard to executing the duties and responsibilities of the
 56 agency related to statewide information technology strategic
 57 planning and policy.

58 (c) The council shall be governed by the Code of Ethics
 59 for Public Officers and Employees as set forth in part III of
 60 chapter 112, and each member must file a statement of financial
 61 interests pursuant to s. 112.3145.

62 Section 2. Section 282.318, Florida Statutes, is amended
 63 to read:

64 282.318 Security of data and information technology.—

65 (1) This section may be cited as the "Information
 66 Technology Security Act."

67 (2) As used in this section, the term "state agency" has
 68 the same meaning as provided in s. 282.0041, except that the
 69 term includes the Department of Legal Affairs, the Department of
 70 Agriculture and Consumer Services, and the Department of
 71 Financial Services.

72 (3) The Agency for State Technology is responsible for
 73 establishing standards and processes consistent with generally
 74 accepted best practices for information technology security and
 75 cybersecurity and adopting rules that safeguard an agency's
 76 data, information, and information technology resources to
 77 ensure availability, confidentiality, and integrity and to
 78 mitigate risks. The agency shall also:

79 (a) Develop, and annually update by February 1, a
 80 statewide information technology security strategic plan that
 81 includes security goals and objectives for the strategic issues
 82 of information technology security policy, risk management,
 83 training, incident management, and disaster recovery planning.

84 (b) Develop and publish for use by state agencies an
 85 information technology security framework that, at a minimum,
 86 includes guidelines and processes for:

87 1. Establishing asset management procedures to ensure that
 88 an agency's information technology resources are identified and
 89 managed consistent with their relative importance to the
 90 agency's business objectives.

91 2. Using a standard risk assessment methodology that
 92 includes the identification of an agency's priorities,
 93 constraints, risk tolerances, and assumptions necessary to
 94 support operational risk decisions.

95 3. Completing comprehensive risk assessments and
 96 information technology security audits and submitting completed
 97 assessments and audits to the Agency for State Technology.

98 4. Completing risk assessments administered by a third
 99 party and submitting completed assessments to the Agency for
 100 State Technology.

101 ~~5.4.~~ Identifying protection procedures to manage the
 102 protection of an agency's information, data, and information
 103 technology resources.

104 ~~6.5.~~ Establishing procedures for accessing information and

105 data to ensure the confidentiality, integrity, and availability
 106 of such information and data.

107 ~~7.6.~~ Detecting threats through proactive monitoring of
 108 events, continuous security monitoring, and defined detection
 109 processes.

110 8.7. Establishing a computer security incident response
 111 team to respond to suspected ~~Responding to~~ information
 112 technology security incidents, including breaches of personal
 113 information containing confidential or exempt data. An agency's
 114 computer security incident response team must convene
 115 immediately upon notice of a suspected security incident and
 116 shall determine the appropriate response.

117 ~~9.8.~~ Recovering information and data in response to an
 118 information technology security incident. The recovery may
 119 include recommended improvements to the agency processes,
 120 policies, or guidelines.

121 10. Establishing an information technology security
 122 incident reporting process, which must include a procedure for
 123 notification of the Agency for State Technology and the
 124 Cybercrime Office of the Department of Law Enforcement. The
 125 notification procedure must provide for tiered reporting
 126 timeframes, with incidents of critical impact reported
 127 immediately, incidents of high impact reported within 4 hours,
 128 and incidents of low impact reported within 5 business days.

129 11. Incorporating lessons learned through detection and
 130 response activities into agency incident response plans to

131 continuously improve organizational response activities.

132 ~~12.9.~~ Developing agency strategic and operational
 133 information technology security plans required pursuant to this
 134 section.

135 ~~13.10.~~ Establishing the managerial, operational, and
 136 technical safeguards for protecting state government data and
 137 information technology resources that align with the state
 138 agency risk management strategy and that protect the
 139 confidentiality, integrity, and availability of information and
 140 data.

141 14. Providing all agency employees with information
 142 technology security and cybersecurity awareness education and
 143 training within 30 days after commencing employment.

144 (c) Assist state agencies in complying with this section.

145 (d) In collaboration with the Cybercrime Office of the
 146 Department of Law Enforcement, provide training that must
 147 include training on cybersecurity threats, trends, and best
 148 practices for state agency information security managers and
 149 computer security incident response team members at least
 150 annually.

151 (e) Annually review the strategic and operational
 152 information technology security plans of executive branch
 153 agencies.

154 (f) Develop and establish a cutting-edge internship or
 155 work-study program in science, technology, engineering, and
 156 mathematics (STEM) that will produce a more skilled

157 cybersecurity workforce in the state. The program must be a
 158 collaborative effort involving negotiations between the Agency
 159 for State Technology, relevant Agency for State Technology
 160 partners, and the Florida Center for Cybersecurity.

161 (4) Each state agency head shall, at a minimum:

162 (a) Designate an information security manager to
 163 administer the information technology security program of the
 164 state agency. This designation must be provided annually in
 165 writing to the Agency for State Technology by January 1. A state
 166 agency's information security manager, for purposes of these
 167 information security duties, shall report directly to the agency
 168 head.

169 1. The information security manager shall establish a
 170 computer security incident response team to respond to a
 171 suspected computer security incident.

172 2. Computer security incident response team members shall
 173 convene immediately upon notice of a suspected security
 174 incident.

175 3. Computer security incident response team members shall
 176 determine the appropriate response for a suspected computer
 177 security incident. An appropriate response includes taking
 178 action to prevent expansion or recurrence of an incident,
 179 mitigating the effects of an incident, and eradicating an
 180 incident. Newly identified risks must be mitigated or documented
 181 as an accepted risk by computer security incident response team
 182 members.

183 (b) Submit to the Agency for State Technology annually by
 184 July 31, the state agency's strategic and operational
 185 information technology security plans developed pursuant to
 186 rules and guidelines established by the Agency for State
 187 Technology.

188 1. The state agency strategic information technology
 189 security plan must cover a 3-year period and, at a minimum,
 190 define security goals, intermediate objectives, and projected
 191 agency costs for the strategic issues of agency information
 192 security policy, risk management, security training, security
 193 incident response, and disaster recovery. The plan must be based
 194 on the statewide information technology security strategic plan
 195 created by the Agency for State Technology and include
 196 performance metrics that can be objectively measured to reflect
 197 the status of the state agency's progress in meeting security
 198 goals and objectives identified in the agency's strategic
 199 information security plan.

200 2. The state agency operational information technology
 201 security plan must include a progress report that objectively
 202 measures progress made towards the prior operational information
 203 technology security plan and a project plan that includes
 204 activities, timelines, and deliverables for security objectives
 205 that the state agency will implement during the current fiscal
 206 year.

207 (c) Conduct, and update every 3 years, a comprehensive
 208 risk assessment to determine the security threats to the data,

209 information, and information technology resources of the agency.
 210 The risk assessment must comply with the risk assessment
 211 methodology developed by the Agency for State Technology and is
 212 confidential and exempt from s. 119.07(1), except that such
 213 information shall be available to the Auditor General, the
 214 Agency for State Technology, the Cybercrime Office of the
 215 Department of Law Enforcement, and, for state agencies under the
 216 jurisdiction of the Governor, the Chief Inspector General.

217 (d) Conduct a risk assessment that must be administered by
 218 a third party and must be completed by July 31, 2017. Subject to
 219 legislative appropriation, additional risk assessments may
 220 periodically be completed.

221 (e)~~(d)~~ Develop, and periodically update, written internal
 222 policies and procedures, which include procedures for reporting
 223 information technology security incidents and breaches to the
 224 Cybercrime Office of the Department of Law Enforcement and the
 225 Agency for State Technology. Procedures for reporting
 226 information technology security incidents and breaches must
 227 include notification procedures and reporting timeframes. Such
 228 policies and procedures must be consistent with the rules,
 229 guidelines, and processes established by the Agency for State
 230 Technology to ensure the security of the data, information, and
 231 information technology resources of the agency. The internal
 232 policies and procedures that, if disclosed, could facilitate the
 233 unauthorized modification, disclosure, or destruction of data or
 234 information technology resources are confidential information

235 and exempt from s. 119.07(1), except that such information shall
 236 be available to the Auditor General, the Cybercrime Office of
 237 the Department of Law Enforcement, the Agency for State
 238 Technology, and, for state agencies under the jurisdiction of
 239 the Governor, the Chief Inspector General.

240 (f)~~(e)~~ Implement managerial, operational, and technical
 241 safeguards established by the Agency for State Technology to
 242 address identified risks to the data, information, and
 243 information technology resources of the agency.

244 (g)~~(f)~~ Ensure that periodic internal audits and
 245 evaluations of the agency's information technology security
 246 program for the data, information, and information technology
 247 resources of the agency are conducted. The results of such
 248 audits and evaluations are confidential information and exempt
 249 from s. 119.07(1), except that such information shall be
 250 available to the Auditor General, the Cybercrime Office of the
 251 Department of Law Enforcement, the Agency for State Technology,
 252 and, for agencies under the jurisdiction of the Governor, the
 253 Chief Inspector General.

254 (h)~~(g)~~ Include appropriate information technology security
 255 requirements in the written specifications for the solicitation
 256 of information technology and information technology resources
 257 and services, which are consistent with the rules and guidelines
 258 established by the Agency for State Technology in collaboration
 259 with the Department of Management Services.

260 (i)~~(h)~~ Provide information technology security and

261 cybersecurity awareness training to all state agency employees
 262 in the first 30 days after commencing employment concerning
 263 information technology security risks and the responsibility of
 264 employees to comply with policies, standards, guidelines, and
 265 operating procedures adopted by the state agency to attain an
 266 appropriate level of cyber literacy and reduce those risks. The
 267 training may be provided in collaboration with the Cybercrime
 268 Office of the Department of Law Enforcement. Agencies shall
 269 ensure that privileged users, third party stakeholders, senior
 270 executives, and physical and information security personnel
 271 understand their roles and responsibilities.

272 (j) ~~(i)~~ Develop a process for detecting, reporting, and
 273 responding to threats, breaches, or information technology
 274 security incidents that are consistent with the security rules,
 275 guidelines, and processes established by the Agency for State
 276 Technology.

277 1. All information technology security incidents and
 278 breaches must be reported to the Agency for State Technology.
 279 Procedures for reporting information technology security
 280 incidents and breaches must include notification procedures.

281 2. For information technology security breaches, state
 282 agencies shall provide notice in accordance with s. 501.171.

283 (k) Improve organizational response activities by
 284 incorporating lessons learned from current and previous
 285 detection and response activities into response plans.

286 (5) The Agency for State Technology shall adopt rules

287 relating to information technology security and to administer
 288 this section.

289 Section 3. (1) For the 2016-2017 fiscal year, the sums of
 290 \$650,000 in nonrecurring funds and \$50,000 in recurring funds
 291 are appropriated from the General Revenue Fund to the Agency for
 292 State Technology to conduct training exercises in coordination
 293 with the Florida National Guard.

294 (2) For the 2016-2017 fiscal year, the sum of \$12 million
 295 is appropriated from the General Revenue Fund to the Agency for
 296 State Technology for the purpose of implementing this act.

297 Section 4. This act shall take effect July 1, 2016.

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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
 2 Appropriations Subcommittee
 3 Representative Artiles offered the following:

Amendment

6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsection (3) of section 20.61, Florida
 8 Statutes, is amended to read:

9 20.61 Agency for State Technology.—The Agency for State
 10 Technology is created within the Department of Management
 11 Services. The agency is a separate budget program and is not
 12 subject to control, supervision, or direction by the Department
 13 of Management Services, including, but not limited to,
 14 purchasing, transactions involving real or personal property,
 15 personnel, or budgetary matters.

16 (3) The Technology Advisory Council, consisting of seven
 17 members, is established within the Agency for State Technology

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18 and shall be maintained pursuant to s. 20.052. Four members of
19 the council shall be appointed by the Governor, two of whom must
20 be from the private sector and one who must be a cybersecurity
21 expert. The President of the Senate and the Speaker of the House
22 of Representatives shall each appoint one member of the council.
23 The Attorney General, the Commissioner of Agriculture and
24 Consumer Services, and the Chief Financial Officer shall jointly
25 appoint one member by agreement of a majority of these officers.
26 Upon initial establishment of the council, two of the Governor's
27 appointments shall be for 2-year terms. Thereafter, all
28 appointments shall be for 4-year terms.

29 (a) The council shall consider and make recommendations to
30 the executive director on such matters as enterprise information
31 technology policies, standards, services, and architecture. The
32 council may also identify and recommend opportunities for the
33 establishment of public-private partnerships when considering
34 technology infrastructure and services in order to accelerate
35 project delivery and provide a source of new or increased
36 project funding.

37 (b) The executive director shall consult with the council
38 with regard to executing the duties and responsibilities of the
39 agency related to statewide information technology strategic
40 planning and policy.

41 (c) The council shall be governed by the Code of Ethics
42 for Public Officers and Employees as set forth in part III of

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43 chapter 112, and each member must file a statement of financial
44 interests pursuant to s. 112.3145.

45

46 Section 2. Subsections (3) and (4) of section 282.318,
47 Florida Statutes, are amended to read:

48 282.318 Security of data and information technology.—

49 (3) The Agency for State Technology is responsible for
50 establishing standards and processes consistent with generally
51 accepted best practices for information technology security, to
52 include cybersecurity, and adopting rules that safeguard an
53 agency's data, information, and information technology resources
54 to ensure availability, confidentiality, and integrity and to
55 mitigate risks. The agency shall also:

56 (a) Develop, and annually update by February 1, a
57 statewide information technology security strategic plan that
58 includes security goals and objectives for the strategic issues
59 of information technology security policy, risk management,
60 training, incident management, and disaster recovery planning.

61 (b) Develop and publish for use by state agencies an
62 information technology security framework that, at a minimum,
63 includes guidelines and processes for:

64 1. Establishing asset management procedures to ensure that
65 an agency's information technology resources are identified and
66 managed consistent with their relative importance to the
67 agency's business objectives.

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68 2. Using a standard risk assessment methodology that
69 includes the identification of an agency's priorities,
70 constraints, risk tolerances, and assumptions necessary to
71 support operational risk decisions.

72 3. Completing comprehensive risk assessments and
73 information technology security audits, which may be completed
74 by a private sector vendor, and submitting completed assessments
75 and audits to the Agency for State Technology.

76 4. Identifying protection procedures to manage the
77 protection of an agency's information, data, and information
78 technology resources.

79 5. Establishing procedures for accessing information and
80 data to ensure the confidentiality, integrity, and availability
81 of such information and data.

82 6. Detecting threats through proactive monitoring of
83 events, continuous security monitoring, and defined detection
84 processes.

85 7. Establishing agency computer security incident response
86 teams and describing their responsibilities for responding
87 ~~Responding~~ to information technology security incidents,
88 including breaches of personal information containing
89 confidential or exempt data.

90 8. Recovering information and data in response to an
91 information technology security incident. The recovery may
92 include recommended improvements to the agency processes,
93 policies, or guidelines.

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94 9. Establishing an information technology security
95 incident reporting process which must include a procedure and a
96 tiered reporting timeframe for notification of the Agency for
97 State Technology and the Department of Law Enforcement. The
98 tiered reporting timeframe shall be based upon the level of
99 severity of the information technology security incident.

100 10. Incorporating information obtained through detection
101 and response activities into agency information technology
102 security incident response plans.

103 ~~11.9.~~ Developing agency strategic and operational
104 information technology security plans required pursuant to this
105 section.

106 ~~12.10.~~ Establishing the managerial, operational, and
107 technical safeguards for protecting state government data and
108 information technology resources that align with the state
109 agency risk management strategy and that protect the
110 confidentiality, integrity, and availability of information and
111 data.

112 (c) Assist state agencies in complying with this section.

113 (d) In collaboration with the Cybercrime Office of the
114 Department of Law Enforcement, annually provide training for
115 state agency information security managers and computer security
116 incident response team members that shall include training on
117 information technology security, to include cybersecurity,
118 threats, trends, and best practices.

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119 (e) Annually review the strategic and operational
120 information technology security plans of executive branch
121 agencies.

122 (4) Each state agency head shall, at a minimum:

123 (a) Designate an information security manager to
124 administer the information technology security program of the
125 state agency. This designation must be provided annually in
126 writing to the Agency for State Technology by January 1. A state
127 agency's information security manager, for purposes of these
128 information security duties, shall report directly to the agency
129 head.

130 (b) In consultation with the Agency for State Technology
131 and the Cybercrime Office of the Department of Law Enforcement,
132 establish an agency computer security incident response team to
133 respond to an information technology security incident. The
134 agency computer security incident response team shall convene
135 immediately upon notice of an information technology security
136 incident and shall comply with all applicable guidelines and
137 processes established pursuant to s. 282.318(3)(b).

138 (c) ~~(b)~~ Submit to the Agency for State Technology annually
139 by July 31, the state agency's strategic and operational
140 information technology security plans developed pursuant to
141 rules and guidelines established by the Agency for State
142 Technology.

143 1. The state agency strategic information technology
144 security plan must cover a 3-year period and, at a minimum,

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145 define security goals, intermediate objectives, and projected
146 agency costs for the strategic issues of agency information
147 security policy, risk management, security training, security
148 incident response, and disaster recovery. The plan must be based
149 on the statewide information technology security strategic plan
150 created by the Agency for State Technology and include
151 performance metrics that can be objectively measured to reflect
152 the status of the state agency's progress in meeting security
153 goals and objectives identified in the agency's strategic
154 information security plan.

155 2. The state agency operational information technology
156 security plan must include a progress report that objectively
157 measures progress made towards the prior operational information
158 technology security plan and a project plan that includes
159 activities, timelines, and deliverables for security objectives
160 that the state agency will implement during the current fiscal
161 year.

162 (c) Conduct, and update every 3 years, a comprehensive
163 risk assessment, which may be completed by a private sector
164 vendor, to determine the security threats to the data,
165 information, and information technology resources of the agency.
166 The risk assessment must comply with the risk assessment
167 methodology developed by the Agency for State Technology and is
168 confidential and exempt from s. 119.07(1), except that such
169 information shall be available to the Auditor General, the
170 Agency for State Technology, the Cybercrime Office of the

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171 Department of Law Enforcement, and, for state agencies under the
172 jurisdiction of the Governor, the Chief Inspector General.

173 (d) Develop, and periodically update, written internal
174 policies and procedures, which include procedures for reporting
175 information technology security incidents and breaches to the
176 Cybercrime Office of the Department of Law Enforcement and the
177 Agency for State Technology. Such policies and procedures must
178 be consistent with the rules, guidelines, and processes
179 established by the Agency for State Technology to ensure the
180 security of the data, information, and information technology
181 resources of the agency. The internal policies and procedures
182 that, if disclosed, could facilitate the unauthorized
183 modification, disclosure, or destruction of data or information
184 technology resources are confidential information and exempt
185 from s. 119.07(1), except that such information shall be
186 available to the Auditor General, the Cybercrime Office of the
187 Department of Law Enforcement, the Agency for State Technology,
188 and, for state agencies under the jurisdiction of the Governor,
189 the Chief Inspector General.

190 (e) Implement managerial, operational, and technical
191 safeguards and risk assessment remediation plans recommended
192 ~~established~~ by the Agency for State Technology to address
193 identified risks to the data, information, and information
194 technology resources of the agency.

195 (f) Ensure that periodic internal audits and evaluations
196 of the agency's information technology security program for the

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197 data, information, and information technology resources of the
198 agency are conducted. The results of such audits and evaluations
199 are confidential information and exempt from s. 119.07(1),
200 except that such information shall be available to the Auditor
201 General, the Cybercrime Office of the Department of Law
202 Enforcement, the Agency for State Technology, and, for agencies
203 under the jurisdiction of the Governor, the Chief Inspector
204 General.

205 (g) Include appropriate information technology security
206 requirements in the written specifications for the solicitation
207 of information technology and information technology resources
208 and services, which are consistent with the rules and guidelines
209 established by the Agency for State Technology in collaboration
210 with the Department of Management Services.

211 (h) Provide information technology security and
212 cybersecurity awareness training to all state agency employees
213 in the first 30 days after commencing employment concerning
214 information technology security risks and the responsibility of
215 employees to comply with policies, standards, guidelines, and
216 operating procedures adopted by the state agency to reduce those
217 risks. The training may be provided in collaboration with the
218 Cybercrime Office of the Department of Law Enforcement.

219 (i) Develop a process for detecting, reporting, and
220 responding to threats, breaches, or information technology
221 security incidents that are consistent with the security rules,

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222 guidelines, and processes established by the Agency for State
223 Technology.

224 1. All information technology security incidents and
225 breaches must be reported to the Agency for State Technology and
226 to the Cybercrime Office of the Department of Law Enforcement
227 and must comply with the notification procedure and reporting
228 timeframes established pursuant to s. 282.318(3)(b).

229 2. For information technology security breaches, state
230 agencies shall provide notice in accordance with s. 501.171.

231 Section 3. This act shall take effect July 1, 2016.

232

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1211 Drugs, Devices, and Cosmetics
SPONSOR(S): Health Quality Subcommittee; Plakon
TIED BILLS: IDEN./SIM. BILLS: SB 1604

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	13 Y, 0 N, As CS	Langston	O'Callaghan
2) Government Operations Appropriations Subcommittee		White <i>CCW</i>	Topp <i>BDT</i>
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The U.S. Food and Drug Administration (FDA) regulates the manufacture of prescription drugs, which typically includes making drugs (preparation, deriving, compounding, propagation, processing, producing, or fabrication) on a large scale for marketing and distribution of the product for unidentified patients. Generally, state boards of pharmacy continue to have primary responsibility for oversight and regulation of the practice of pharmacy, however, the FDA regulates, and in some cases preempts state action, through the Drug Quality and Security Act (DQSA) and federal Food, Drug, and Cosmetic Act (FDCA). The DQSA created a national uniform standard with preemption of state pedigree laws that previously existed in 29 states, including Florida. In lieu of conflicting pedigree requirements from state to state, the DQSA creates an interoperable, electronic system for the tracing of drugs at the package level as they are distributed in the United States.

Part I of ch. 499, F.S., requires the Department of Business and Professional Regulation (DBPR) to regulate drugs, devices, and cosmetics. These regulations oversee various entities in the distribution chain, such as prescription drug manufacturers and prescription drug wholesale distributors, and relate to the distribution of prescription drugs into and within Florida. Additionally, from 2003 until preempted by the DQSA in 2013, Florida law required each person who was engaged in the wholesale distribution of prescription drugs to provide a pedigree paper that detailed the transaction history for tracing each prescription drug through the market.

A wholesale distributor must take reasonable measures to identify its customers, understand the normal and expected transactions conducted by those customers, and identify those transactions that are suspicious in nature. Current law requires a wholesale distributor to assess orders for greater than 5,000 unit doses of any one controlled substance in any one month to determine whether the purchase is reasonable or suspicious.

CS/HB 1211 amends several provisions of ch. 499, F.S., to bring it into conformity with the DQSA. The bill substantially revises the definition section of s. 499.003, F.S., to incorporate definitions of terms from the DQSA, delete terms made obsolete by the DQSA, and address the removal of federally preempted portions of ch. 499, F.S.

The bill eases the initial application and renewal requirements for wholesale distributor permits by reducing the information required to be provided those documents. Additionally, the bill clarifies which entities are required to be permitted as wholesale distributors and revises the current bond requirement for wholesale distributors. The bill establishes a nonresident prescription drug repackager permit for those entities that repackage prescription drugs outside of Florida and distribute those prescription drugs into Florida. The bill also establishes a virtual prescription drug repackager permit and a virtual nonresident prescription drug manufacturer permit. With respect to cosmetic product registration and cosmetic manufacturer permits, the bill aligns the expiration date of the registration of products with the expiration date of the manufacturer's permit.

The bill increases the number of unit doses, from 5,000 to 7,500 unit doses, of a controlled substance that may be ordered during a one-month period before triggering an assessment by the wholesaler as to whether the purchase of that controlled substance is reasonable.

The bill authorizes DBPR to adopt rules to issue remedial, non-disciplinary citations to entities for certain alleged violations of the provisions of ch. 499, F.S.

The bill has an indeterminate, possibly positive, fiscal impact on the Department of Business and Professional Regulation and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1211b.GOAS.DOCX

DATE: 2/4/2016

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Pharmaceutical Supply Chain

The drug that a patient gets from the pharmacy changes hands many times between when it was manufactured and when the pharmacist dispenses it to the patient; during that time, there are potential opportunities for the drug to be mishandled, diverted, or substituted with a counterfeit.¹ The pharmaceutical supply chain begins with the ingredients a manufacturer uses to make a drug, carries through the manufacturing process, and continues through the distribution system of wholesalers, warehouses, and transportation to the dispensing retail and institutional pharmacies, to the patient receiving the drug.²

In April 2013, the Director of the U.S. Food and Drug Administration's (FDA) Center for Drug Evaluation and Research described the pharmaceutical supply chain as follows:

[T]he increasingly complex drug supply chain, from raw source materials to finished products for consumers, presents multiple opportunities for the product to be contaminated, diverted, or otherwise adulterated. Our efforts to secure the supply chain include minimizing risks that arise anywhere along the supply chain continuum, from sourcing a product's ingredients through the overseeing of a product's manufacture, storage, transit, sale, and distribution. A breach at any point in this continuum could lead to dangerous and even deadly outcomes for patients.³

Participants in the Pharmaceutical Supply Chain

A manufacturer produces the drug product and is usually the entity that submits the application to the FDA for approval to market the product or that holds the approval. A wholesale distributor receives the drug from the manufacturer and sells the drug to "persons other than a consumer or patient."⁴ Generally, there are three types of wholesale distributors:

- A primary wholesale distributor obtains the drug products directly from the manufacturer and sells them to other wholesalers or dispensers.⁵
- An authorized distributor of record (ADR) is a wholesale distributor that has a relationship with a manufacturer that is ongoing, defined in regulations as including a written agreement specifying which products it will distribute and for which time period.⁶

¹ Susan Thaul, *Pharmaceutical Supply Chain Security*, Congressional Research Service (October 31, 2013) p. 1, available at <http://www.ncsl.org/documents/statfed/health/CRS-PharmSupChSec2013.pdf> (last visited January 22, 2016)

² *Id.*

³ Statement of Janet Woodcock, Director, Center for Drug Evaluation and Research, Food and Drug Administration, Department of Health and Human Services, before the Subcommittee on Health, Committee on Energy and Commerce, U.S. House of Representatives, hearing on "Securing Our Nation's Prescription Drug Supply Chain," April 25, 2013, <http://www.fda.gov/NewsEvents/Testimony/ucm349186.htm> (last visited January 22, 2016)

⁴ 21 C.F.R. § 203.3.

⁵ The three largest primary wholesale distributors accounted for 85% of U.S. pharmaceutical wholesaling revenue. *After Heparin: Protecting Consumers from the Risks of Substandard and Counterfeit Drugs*, Pew Health Group, (July 12, 2011), <http://www.pewtrusts.org/en/research-and-analysis/reports/2011/07/12/after-heparin-protecting-consumers-from-the-risks-of-substandard-and-counterfeit-drugs> (last visited January 22, 2016); see also, Adam Fein, *Trends and top distributors in the pharmaceuticals sector*, in *MDM Market Leaders 2012: Top Pharmaceuticals Distributors*, (2013), <http://www.mdm.com/2012-mdm-market-leaders-top-pharmaceuticals-distributors> (last visited January 22, 2016)

⁶ 21 C.F.R. § 203.3.

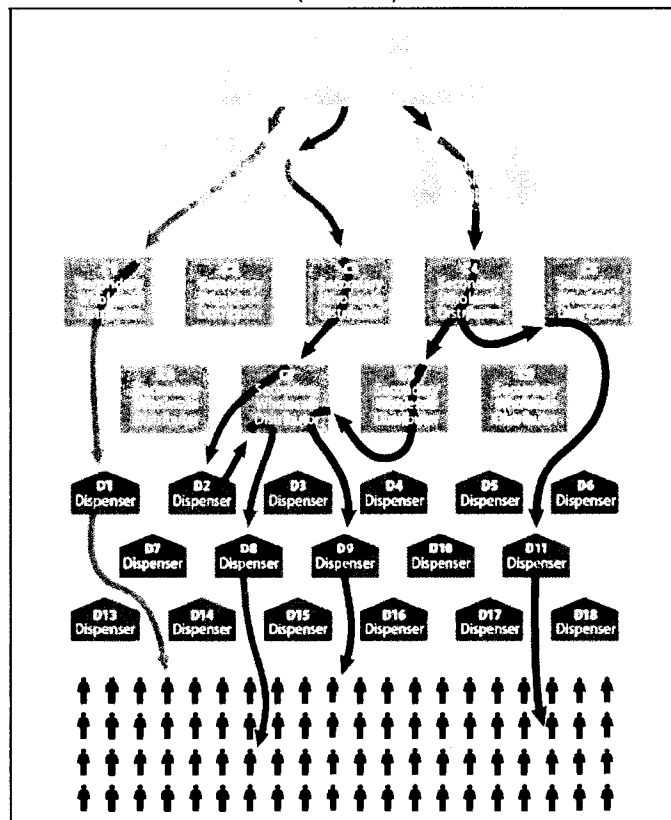
- A secondary wholesale distributor is a wholesale distributor that acquires drug products from a wholesale distributor, not directly from the manufacturer.⁷

Also within the supply chain, a repackager removes a drug from its container and places it in another, usually smaller, container for sale to a distributor or dispenser.⁸ Additionally, a third-party logistics provider takes temporary physical possession of the drug, but does not assume ownership of the drug.⁹

At the end of the supply chain, a dispenser provides the drug to the patient. A dispenser can be an independent, community pharmacy; a retail chain pharmacy; a hospital or health care facility; or doctor's office.¹⁰

A manufacturer may sell directly to a dispenser; however, typically it sells to a primary wholesale distributor, who in turn sells directly to a dispenser or may sell to a secondary wholesale distributor, who then sells the drug to the dispenser.¹¹ A dispenser may return certain drugs to the wholesaler who has the option to sell it to a dispenser, a wholesaler, or return it to the manufacturer.¹² Interspersed throughout the chain may be third-party logistics providers who transport or warehouse the drug under contract to the manufacturer, distributor, or dispenser.¹³

Figure 1. Downstream Pharmaceutical Supply Chain
(for illustration)



Source: Prepared by CRS.

14

⁷ *Supra*, note 1 at 4.

⁸ U.S. Pharmacopeia, *Packaging Practice—Repackaging a Single Solid Oral Drug Product into a Unit-Dose Container*, http://www.pharmacopeia.cn/v29240/usp29nf24s0_c1146.html (last visited January 22, 2016); and Florida Department of Business and Professional Regulation, *Prescription Drug Repackager*, <http://www.myfloridalicense.com/dbpr/ddc/PrescriptionDrugRepackager.html> (last visited January 22, 2016).

⁹ *Supra*, note 1 at 4.

¹⁰ *Id.*

¹¹ *Id.* at 5.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 6.

Since its passage in 1938, the federal Food, Drug, and Cosmetic Act (FDCA), has addressed and indirectly influences the pharmaceutical supply chain; Congress has made focused attempts at improving supply chain security by amending the FDCA.

Federal Regulation of the Pharmaceutical Supply Chain

The FDA regulates the manufacture of prescription drugs, which typically includes making drugs (preparation, deriving, compounding, propagation, processing, producing, or fabrication) on a large scale for marketing and distribution of the product for unidentified patients. Generally, state boards of pharmacy continue to have primary responsibility for oversight and regulation of the practice of pharmacy; however, the FDA regulates, and in some cases preempts state action, through the Drug Quality and Security Act (DQSA) and the FDCA.

Drug Quality and Security Act (DQSA)

Previously, under the Prescription Drug Marketing Act,¹⁵ the wholesale distribution of prescription drugs was monitored through a pedigree to prevent the introduction and retail sale of substandard, ineffective, and counterfeit drugs in the pharmaceutical supply chain.¹⁶ The DQSA amended the FDCA to create a national track-and-trace system to monitor the movement of drugs through the pharmaceutical supply chain. The DQSA created a national uniform standard with preemption of state pedigree laws¹⁷ that previously existed in 29 states, including Florida.¹⁸ In lieu of conflicting pedigree requirements from state to state, the DQSA creates an interoperable, electronic system for the tracing of all drugs transactions at the package level as they are distributed in the United States. The three key components for the DQSA tracing requirements are the transaction history, the transaction information, and the transaction statement.

- *Transaction history:* the statement that includes the transaction information for each prior transaction going back to the manufacturer of the product.¹⁹
- *Transaction information:* the proprietary or established name or names of the product; the strength and dosage form of the product; the National Drug Code number of the product; the container size; the number of containers; the lot number of the product; the date of the transaction; the date of the shipment, if more than 24 hours after the date of the transaction; the business name and address of the person from whom ownership is being transferred; and the business name and address of the person to whom ownership is being transferred.²⁰
- *Transaction statement:* the statement that the entity transferring ownership in a transaction is authorized as required under the DQSA; received the product from a person that is authorized as required under the DQSA; received transaction information and a transaction statement from the prior owner of the product; did not knowingly ship a suspect or illegitimate product; had systems and processes in place to comply with verification requirements; did not knowingly provide false transaction information; and did not knowingly alter the transaction history.²¹

¹⁵ 21 U.S.C. § 353(e)(1)(A) and 21 C.F.R. part 203.

¹⁶ U.S. Food and Drug Administration, *CPG Sec. 160.900 Prescription Drug Marketing Act -- Pedigree Requirements under 21 CFR Part 203*, <http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/ucm073857.htm> (last visited January 22, 2016).

¹⁷ A drug pedigree is a statement of origin that identifies each prior sale, purchase, or trade of a drug, including the date of those transactions and the names and addresses of all parties to them. Under the pedigree requirement, each person who is engaged in the wholesale distribution of a prescription drug in interstate commerce, who is not the manufacturer or an authorized distributor of record for that drug, must provide to the person who receives the drug a pedigree for that drug.

¹⁸ In 2011, the National Alliance for Model State Drug Laws (NAMSDL) identified 20 states with pedigree-related statutes; NAMSDL, *Drug Pedigree Requirements for Pharmacies and Wholesalers: State Statutes*, July 2011, and 16 states with pedigree-related regulations, NAMSDL, *Drug Pedigree Requirements for Pharmacies and Wholesalers: State Regulations*, (July 2011). 29 states have laws or regulations that go "beyond the federal PDMA standards." Testimony of Elizabeth A. Gallenagh, Vice President, Government Affairs and General Counsel, Healthcare Distribution Management Association, before the U.S. House Energy and Commerce Committee, Subcommittee on Health, April 25, 2013.

¹⁹ 21 U.S.C. § 360eee(25).

²⁰ 21 U.S.C. § 360eee(26).

²¹ 21 U.S.C. § 360eee(27).

The electronic tracing system, which will be implemented over a ten-year span, will facilitate the exchange of information at the individual package level about where a drug has been in the supply chain.²² The new system created by the DQSA:

- Enables verification of the legitimacy of the drug product identifier down to the package level;
- Enhances detection and notification of illegitimate products in the drug supply chain; and
- Facilitates more efficient recalls of drug products.²³

Among key provisions implemented over the next 10 years are requirements for:

- *Product identification*: Manufacturers and repackagers must put a unique product identifier on certain prescription drug packages, for example, using a bar code that can be easily read electronically.
- *Product tracing*: Manufacturers, wholesaler drug distributors, repackagers, and many dispensers in the drug supply chain must provide information about a drug and who handled it each time it is sold in the U.S. market.
- *Product verification*: Manufacturers, wholesaler drug distributors, repackagers, and many dispensers must establish systems and processes to be able to verify the product identifier on certain prescription drug packages.
- *Detection and response*: Manufacturers, wholesaler drug distributors, repackagers, and many dispensers must quarantine and promptly investigate a drug that has been identified as suspect, meaning that it may be counterfeit, unapproved, or potentially dangerous.
- *Notification*: Manufacturers, wholesaler drug distributors, repackagers, and many dispensers must establish systems and processes to notify FDA and other stakeholders if an illegitimate drug is found.²⁴

Additionally, the DQSA established uniform national licensing standards for pharmaceutical wholesale distributors and preempts state laws, regulations, and requirements regarding wholesale distributor licensure that are inconsistent with, less stringent than, directly related to, or covered by the standards established by the DQSA. States will continue to license wholesale distributors, but they will be required to do so utilizing the federal standards established.²⁵

Regulation of Drugs, Devices, and Cosmetics in Florida

Part I of ch. 499, F.S., the Florida Drug and Cosmetic Act, requires the Department of Business and Professional Regulation (DBPR) to regulate drugs, devices, and cosmetics.²⁶ Most of the regulations relate to the distribution of prescription drugs into and within Florida. In particular, the regulations require various entities in the distribution chain, such as prescription drug manufacturers and prescription drug wholesale distributors, to obtain permits. In total, Florida has 17 distinct permits for these entities.²⁷ Among many other provisions, the chapter provides for:

- Criminal prohibitions against distribution of contraband and misbranded prescription drugs;

²² U.S. Food and Drug Administration, *Drug Supply Chain Security Act (DSCSA)*, <http://www.fda.gov/Drugs/DrugSafety/DrugIntegrityandSupplyChainSecurity/DrugSupplyChainSecurityAct/> (last visited January 21, 2016).

²³ *Id.*

²⁴ *Id.*

²⁵ States will continue to license wholesale distributors, but they will be required to do so utilizing the federal standards established.

²⁶ S. 27, ch. 2010-161, Law of Fla., shifted responsibility for operation and enforcement of the Florida Drugs, Devices, and Cosmetics Act from the Department of Health to the Department of Business and Professional Regulation.

²⁷ A permit is required for a prescription drug manufacturer; a prescription drug repackager; a nonresident prescription drug manufacturer; a prescription drug wholesale distributor; an out-of-state prescription drug wholesale distributor; a retail pharmacy drug wholesale distributor; a restricted prescription drug distributor; a complimentary drug distributor; a freight forwarder; a veterinary prescription drug retail establishment; a veterinary prescription drug wholesale distributor; a limited prescription drug veterinary wholesale distributor; an over-the-counter drug manufacturer; a device manufacturer; a cosmetic manufacturer; a third party logistics provider; or a health care clinic establishment. S. 499.01(1), F.S.

- Regulation of the advertising and labeling of drugs, devices, and cosmetics;
- Permits for manufacturing and distributing drugs, devices, and cosmetics;
- Regulation of the wholesale distribution of prescription drugs with pedigree papers;
- Regulation of the provision of drug samples;
- The Cancer Drug Donation Program; and
- Numerous enforcement avenues for DBPR, including seizure and condemnation of drugs, devices, and cosmetics.

Many of these regulations have been significantly strengthened in recent years, including more stringent requirements to obtain a wholesale distributor permit, requiring, among other items, a posting of a bond and extensive background information for various employees of the wholesale distributor;²⁸ more thorough documentation requirements for the distribution of prescription drugs, including broader application of the pedigree paper²⁹ to most wholesale distributions;³⁰ enhanced criminal penalties for, among other things, distribution of contraband prescription drugs;³¹ and stronger departmental enforcement authority to protect the prescription drug supply chain.³²

Permitting

An application for a permit or to renew a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor must include:

- Certain personal identification and contact information;
- Estimates, in total dollar volume of prescription drug sales and purchases;
- Financial information;
- Information about the property on which the business is located;
- Information related to out-of-state licenses;
- Employee information, including fingerprints;
- Any other relevant information that DBPR requires, including, but not limited to, any information related to whether the applicant satisfies the definition of a primary wholesale distributor or a secondary wholesale distributor; and
- Documentation of the credentialing policies and procedures.

For an applicant that is a secondary wholesale distributor, the permit application must contain each of the following:

- A personal background information statement containing the background information and fingerprints each person named as the manager of the establishment, each designated representative, and each affiliated party of the applicant;
- If any of the five largest shareholders of the corporation seeking the permit is a corporation, the name, address, and title of each corporate officer and director of each such corporation; the name and address of such corporation; the name of such corporation's resident agent, such corporation's resident agent's address, and such corporation's state of its incorporation; and the

²⁸ S. 499.01(2)(d), F.S. (requiring a bond of \$100,000 or other means of equivalent security) and s. 499.012(8) and (9), F.S. (requiring, in addition to other information, place of residence for the past 7 years, fingerprints, photograph taken within 30 days, and name, address, occupation, and date and place of birth of each member of the person's immediate family who is 18 years of age or older).

²⁹ A pedigree paper is a record that documents the movement of drugs, devices or cosmetics through the chain of commerce. A pedigree paper must provide a complete audit trail from a person's receipt or acquisition to sale or other disposition of the product or component. Rule 61N-1.012(1)(a), F.A.C.

³⁰ S. 499.01212, F.S. ("Each person who is engaged in the wholesale distribution of a prescription drug must, prior to or simultaneous with each wholesale distribution, provide a pedigree paper to the person who receives the drug.")

³¹ S. 499.0051(6), F.S. (imposing a second degree felony for "a person who is knowingly in actual or constructive possession of any amount of contraband prescription drugs, who knowingly sells or delivers, or who possesses with intent to sell or deliver any amount of contraband prescription drugs").

³² S. 499.0051(12) and (13), F.S.

name and address of each shareholder of such corporation that owns five percent or more of the stock of such corporation;

- The name and address of all financial institutions in which the applicant has an account which is used to pay for the operation of the establishment or to pay for drugs purchased for the establishment, together with the names of all persons that are authorized signatories on such accounts;
- The sources of all funds and the amounts of such funds used to purchase or finance purchases of prescription drugs or to finance the premises on which the establishment is to be located; and
- If any of the funds identified were borrowed, copies of all promissory notes or loans used to obtain such funds.³³

Pedigree Papers

Florida law required, from 2003 until preempted by the DQSA in 2013, each person who was engaged in the wholesale distribution of a prescription drug to provide a pedigree paper, which provided the transaction history for tracing a prescription drug through the market, under the Prescription Drug Protection Act.³⁴ The pedigree was required to be completed prior to or simultaneous with each wholesale distribution. The Prescription Drug and Protection Act not only required pedigree papers for the wholesale distribution of prescription drugs, but also increased permitting requirements for prescription drug wholesale distributors and established criminal penalties for prescription drug violations related to counterfeiting and diversion.³⁵

For the wholesale distribution of a prescription drug within the normal distribution chain, a pedigree paper was required to contain:

- The statement: "This wholesale distributor purchased the specific unit of the prescription drug directly from the manufacturer."
- The manufacturer's national drug code identifier and the name and address of the wholesale distributor and the purchaser of the prescription drug.
- The name of the prescription drug as it appears on the label.
- The quantity, dosage form, and strength of the prescription drug.³⁶

For all other wholesale distributions of prescription drugs, the pedigree paper was required to contain:

- The quantity, dosage form, and strength of the prescription drugs.
- The lot numbers of the prescription drugs.
- The name and address of each owner of the prescription drug and his or her signature.
- Shipping information, including the name and address of each person certifying delivery or receipt of the prescription drug.
- An invoice number, a shipping document number, or another number uniquely identifying the transaction.
- A certification that the recipient wholesale distributor has authenticated the pedigree papers.
- The unique serialization of the prescription drug, if the manufacturer or repackager has uniquely serialized the individual prescription drug unit.
- The name, address, telephone number, and, if available, e-mail contact information of each wholesale distributor involved in the chain of the prescription drug's custody.³⁷

³³ S. 499.012(8)(g), F.S.

³⁴ Ch. 2003-155, Laws of Fla.; s. 499.01212(1), F.S.

³⁵ Id.

³⁶ S. 499.01212(2)(a), F.S.

³⁷ S. 499.01212(2)(b), F.S.

Unit Doses

While not required by the FDCA, the federal Drug Enforcement Agency (DEA) requires distributors to have a system to identify suspicious orders of controlled substances and to notify the DEA of such orders.³⁸ In Florida, DBPR requires wholesale distributors to take reasonable measures to identify their customers, understand the normal and expected transactions conducted by those customers, and identify those transactions that are suspicious in nature.³⁹ A wholesale distributor must report to DBPR suspicious transactions, such as those involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the wholesale distributor believes indicates that the listed chemical will be used in violation of the law.⁴⁰ The DEA does not establish a quantity of a controlled substance that makes an order “suspicious;” however, Florida law requires a wholesale distributor to assess orders for greater than 5,000 unit doses of any one controlled substance in any one month to determine whether the purchase is reasonable or suspicious.⁴¹

Non-Disciplinary Citations

DBPR may bring an enforcement action, including the issuance of Notices of Violations and Administrative Complaints, against entities that have violated the provisions of ch. 499, F.S., that are not harmful or unsafe to the public health, such as changing ownership and continuing to operate without notifying DBPR. However, DBPR does not currently have the authority to issue such citations under ch. 499, F.S. DBPR does have this authority for the other professions it regulates under ch. 455, F.S. (Business and Professional Regulation); similarly, the Department of Health has this authority under ch. 456, F.S. (Health Professions and Occupations).

Effect of the Bill

Alignment of Ch. 499, F.S., with the DQSA

CS/HB 1211 amends several provisions of ch. 499, F.S., to bring it into conformity with the DQSA’s amendments to the FDCA.

Definitions

The bill substantially revises the definition section of s. 499.003, F.S., to incorporate definitions of terms from the DQSA, delete terms made obsolete by the DQSA, and address the removal of federally preempted portions of ch. 499, F.S. Of note, the bill substantially revises the definition of wholesale distribution and removes the definitions for primary and secondary distribution as well as what it means to distribute in order to comply with the DQSA. The bill excludes the following activities from the definition of wholesale distribution:

- Intracompany distribution between members of an affiliate or within a manufacturer;
- Distribution of a prescription drug by the manufacturer of that prescription drug;
- Distribution of a prescription drug by a third-party logistics provider in accordance with state and federal law if the third-party logistics provider does not own the drug;
- Distribution of, or offer to distribute, a prescription drug by a repackager that is registered under the federal act that owned or possessed the drug and which repackaged it;
- The purchase or other acquisition by a dispenser, hospital, or other health care entity for use by that dispenser, hospital, or other health care entity;
- Distribution of a prescription drug for the purpose of repacking the drug owned by a hospital for the hospital’s use or other health care entity that is under common control with the hospital;

³⁸ 21 C.F.R. § 1301.74(b).

³⁹ S. 499.0121(15)(b), F.S.

⁴⁰ *Id.*

⁴¹ *Id.*

- Distribution of minimal quantities of prescription drugs by a retail pharmacy for office use in compliance with the Florida Pharmacy Act and its rules;
- Distribution of an intravenous prescription drug that is intended for replenishment of fluids and electrolytes, or to maintain the equilibrium of water and minerals in the body;
- Distribution of a prescription drug that is intended for irrigation or sterile water;
- Distribution of exempt medical convenience kits;
- Transport by a common carrier if it does not own the prescription drug;
- Saleable returns when conducted by a dispenser;
- Facilitating the distribution of a prescription drug by providing solely administrative services;
- Distribution of a specially-priced or donated prescription drug by a charitable organization to a licensed health care practitioner, health care clinic permitted pursuant to the Florida Drug and Cosmetic Act, or to the DOH or other governmental health care entity for providing emergency medical services, if the distributor and recipient receive no direct or indirect financial benefit other than tax benefits for charitable contributions; and
- Distribution of a medical gas in compliance with part III of the Florida Drug and Cosmetic Act.

Preemption of Pedigree law

The bill removes references to Florida's pedigree requirements throughout ch. 499, F.S. Additionally, where appropriate, the bill replaces the references to "pedigree papers" with references to "transaction history, transaction information, or transaction statement" to account for the DQSA's preemption of Florida's pedigree law and the requirements for the new tracking and tracing program under the DQSA.

Permits and Permitting

The bill eases the renewal requirements for wholesale distributor permits by reducing the information required to be provided in the initial application and renewals. Additionally, it clarifies the entities that are required to be permitted as wholesale distributors in Florida and removes current bond requirement for wholesale distributors. It conforms the wholesale distributor bond requirement of the DQSA, allowing wholesale distributors with annual sales of \$10,000,000 or less to provide proof of \$25,000 bond or other equivalent security.

The bill clarifies when the Division can issue a prescription drug manufacturer permit to a nuclear pharmacy and a retail pharmacy wholesale distributor permit to a community pharmacy.

The bill removes the requirement that repackagers comply with the same requirements as wholesale distributors and requires repackagers to comply with requirements applicable to prescription drug manufacturers to comport to the provisions of the DQSA.

The bill establishes a nonresident prescription drug repackager permit for those entities that repackaging prescription drugs outside of Florida and distribute those prescription drugs into Florida. The nonresident prescription drug repackager must comply with manufacture requirements to be permitted, comply with all state and federal good manufacturing practices, and be registered with the federal government.

The bill also establishes a virtual prescription drug manufacturer permit and a virtual nonresident prescription drug manufacturing permit for entities that manufacture prescription drugs but do not actually make or take physical possession of the prescription drugs. Because these manufacturers neither make nor take possession of prescription drugs, the DBPR is authorized to adopt rules exempting the nonresident virtual manufacturers from certain establishment, security and storage requirements.

With respect to cosmetic product registration and cosmetic manufacturer permits, the bill aligns the expiration date of the registration of products with the expiration date of the manufacturer's permit.

Unit Doses

The bill increases the number of unit doses, from 5,000 to 7,500 unit doses, of a controlled substance that may be ordered during a one-month period before triggering an assessment by the wholesaler as to whether the purchase of that controlled substance is reasonable.

Non-Disciplinary Citations

The bill authorizes DBPR to adopt rules to issue remedial, non-disciplinary citations to entities for alleged violations of the provisions of ch. 499, F.S. These citations may be issued, within 12 months of the occurrence, for violations that do not pose a substantial threat to the public health, safety, and welfare. The subject of the citation must be given the option to refuse the citation and have the allegations investigated pursuant to the provisions of s. 499.051, F.S., relating to investigations. The citation becomes a non-disciplinary final order if not timely disputed. DBPR is authorized to recover investigatory costs as part of the citation and adopt rules to designate the monetary assessments and other remedial measures that must be taken as a result of a citation.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 499.003, F.S., relating to definitions of terms used in this part.
- Section 2:** Amends s. 499.005, F.S., relating to prohibited acts.
- Section 3:** Amends s. 499.0051, F.S., relating to criminal acts.
- Section 4:** Amends s. 499.006, F.S., related to adulterated drug or device.
- Section 5:** Amends s. 499.01, F.S., relating to permits.
- Section 6:** Amends s. 499.012, F.S., relating to permit application requirements.
- Section 7:** Amends s. 499.01201, F.S., relating to Agency for Health Care Administration review and use of statute and rule violation or compliance data.
- Section 8:** Amends s. 499.0121, F.S., relating to storage and handling of prescription drugs.
- Section 9:** Amends s. 499.015, F.S., relating to registration of drugs, devices, and cosmetics; issuance of certificates of free sale.
- Section 10:** Amends s. 499.03, F.S., relating to possession of certain drugs without prescriptions unlawful; exemptions and exceptions.
- Section 11:** Amends s. 499.05, F.S., relating to rules.
- Section 12:** Amends s. 499.051, F.S., relating to inspections and investigations.
- Section 13:** Amends s. 499.066, F.S., relating to penalties; remedies.
- Section 14:** Amends s. 499.82, F.S., relating to definitions.
- Section 15:** Amends s. 499.89, F.S., relating to recordkeeping.
- Section 16:** Repeals s. 499.01212, F.S.
- Section 17:** Amends s. 409.9201, F.S., related to Medicaid fraud.
- Section 18:** Amends s. 499.067, F.S., relating to denial, suspension, or revocation of permit, certification, or registration.
- Section 19:** Amends s. 794.075, F.S., relating to sexual predators; erectile dysfunction drugs.
- Section 20:** Amends s. 921.0022, F.S., relating to criminal punishment code; offense severity ranking chart.
- Section 21:** Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Division may see an indeterminate increase in revenues from fees collected from non-disciplinary citations. See Fiscal Comments.

2. Expenditures:

The Division will save \$579 annually in postage from changes to the process for renewal of permits.⁴²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Cost savings associated with the reduction of information that is required to be provided in distributor permit applications and renewals could result in an estimated annual savings of \$225,379 to the industry each year and an estimated saving of \$1,105 per year per permittee.⁴³

D. FISCAL COMMENTS:

The bill amends ch. 499, F.S., to bring the statutes into conformity with the federal Drug Quality and Security Act, which has three permits not in current Florida law: nonresident repackager, virtual prescription drug manufacturer, and nonresident virtual prescription drug manufacturer. The entities that fall into these three new permits are already issued another type of permit by DBPR. If the bill passes, these permittees will be reclassified into the new permits and will not be charged a second time for the current permits. These three new permits will impose an initial registration fee of \$1,500 and a biennial registration fee of \$1,500.⁴⁴ The current biennial fees for the virtual prescription drug manufacturer and the nonresident prescription drug manufacturer are \$1,500, therefore the cost will remain the same for these entities. The current biennial fee for the nonresident repackager is \$1,600, as these entities are currently permitted as an out-of-state prescription drug wholesale distributor. The \$100 difference in this fee is negligible as the Division does not believe that there is a significant number of entities to whom this would apply.⁴⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DBPR is authorized to adopt rules to:

- Set permitting renewal schedules;

⁴² Id.

⁴³ Department of Business and Professional Regulation, Agency Analysis of 2016 House Bill 1211, p. 11 (Jan. 16, 2016) (on file with Health Quality Subcommittee staff).

⁴⁴ Id.

⁴⁵ Email from Colton Madill, Department of Business and Professional Regulation, RE: 1211 (Jan. 31, 2016) (on file with Government Operations Appropriations Subcommittee staff).

- Determine violations of ch. 499, F.S., for which non-disciplinary citations may be issued;
- Determine the monetary assessment and other remedial measures that an entity issued a non-disciplinary citation must comply with to satisfy the citation; and
- Provide for the issuance of virtual prescription drug manufacturer (resident & nonresident) permits, including rules pertaining to establishment, security and storage.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Health Quality Subcommittee adopted three amendments to the bill that:

- Remove voluntary cosmetic product registration, restore mandatory cosmetic product registration, and align the expiration date of the registration of cosmetic products with the expiration date of the cosmetic manufacturer's permit.
- Increase the number of unit doses, from 5,000 to 7,500 unit doses, of a controlled substance that may be ordered during a one-month period before triggering an assessment by the wholesaler as to whether the purchase of that controlled substance is reasonable.
- Amends cross-references to conform statutes to changes made by the bill.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.

1 A bill to be entitled
2 An act relating to drugs, devices, and cosmetics;
3 amending s. 499.003, F.S.; providing, revising, and
4 deleting definitions for purposes of the Florida Drug
5 and Cosmetic Act; amending s. 499.005, F.S.; revising
6 prohibited acts related to the distribution of
7 prescription drugs; conforming a cross-reference;
8 amending s. 499.0051, F.S.; prohibiting the
9 distribution of prescription drugs without delivering
10 a transaction history, transaction information, and
11 transaction statement; providing penalties; deleting
12 provisions and revising terminology related to
13 pedigree papers, to conform to changes made by the
14 act; amending s. 499.006, F.S.; conforming provisions;
15 amending s. 499.01, F.S.; requiring nonresident
16 prescription drug repackagers to obtain an operating
17 permit; authorizing a manufacturer to engage in the
18 wholesale distribution of prescription drugs;
19 providing for the issuance of virtual prescription
20 drug manufacturer permits and virtual nonresident
21 prescription drug manufacturer permits to certain
22 persons; providing exceptions from certain virtual
23 manufacturer requirements; requiring a nonresident
24 prescription drug repackager permit for certain
25 persons; deleting surety bond requirements for
26 prescription drug wholesale distributors; requiring

27 | that certain persons obtain an out-of-state
 28 | prescription drug wholesale distributor permit;
 29 | requiring certain third party logistic providers to be
 30 | licensed; requiring research and development labeling
 31 | on certain prescription drug active pharmaceutical
 32 | ingredient packaging; requiring certain manufacturers
 33 | to create and maintain certain records; requiring
 34 | certain prescription drug distributors to provide
 35 | certain information to health care entities for which
 36 | they repackage prescription drugs; amending s.
 37 | 499.012, F.S.; providing for issuance of a
 38 | prescription drug manufacturer permit or retail
 39 | pharmacy drug wholesale distributor permit when an
 40 | applicant at the same address is a licensed nuclear
 41 | pharmacy or community pharmacy; providing for the
 42 | expiration of deficient permit applications; requiring
 43 | trade secret information submitted by an applicant to
 44 | be maintained as a trade secret; authorizing the
 45 | quadrennial renewal of permits; providing for
 46 | calculation of fees for such permit renewals; revising
 47 | procedures and application requirements for permit
 48 | renewals; providing for late renewal fees; allowing a
 49 | permittee who submits a renewal application to
 50 | continue operations; removing certain application
 51 | requirements for renewal of a permit; requiring bonds
 52 | or other surety of a specified amount; requiring proof

53 | of inspection of establishments used in wholesale
 54 | distribution; authorizing the Department of Business
 55 | and Professional Regulation to contract for the
 56 | collection of electronic fingerprints under certain
 57 | circumstances; providing information that may be
 58 | submitted in lieu of certain application requirements
 59 | for specified permits and certifications; removing
 60 | provisions relating to annual renewal and expiration
 61 | of permits; conforming cross-references; amending s.
 62 | 499.01201, F.S.; conforming provisions; amending s.
 63 | 499.0121, F.S.; revising prescription drug
 64 | recordkeeping requirements; requiring inventories and
 65 | records of transactions for active pharmaceutical
 66 | ingredients; revising the monthly number of unit doses
 67 | of a controlled substance purchased which requires a
 68 | wholesale distributor to perform an assessment of the
 69 | purchase; conforming provisions; amending s. 499.015,
 70 | F.S.; providing for the expiration, renewal, and
 71 | issuance of certain product registrations; providing
 72 | for product registration fees; amending ss. 499.03,
 73 | 499.05, and 499.051, F.S.; conforming provisions to
 74 | changes made by the act; amending s. 499.066, F.S.;
 75 | authorizing the issuance of nondisciplinary citations;
 76 | authorizing the department to adopt rules designating
 77 | violations for which a citation may be issued;
 78 | authorizing the department to recover investigative

79 costs pursuant to the citation; specifying a time
 80 limitation for issuance of a citation; providing for
 81 service of a citation; amending s. 499.82, F.S.;
 82 revising the definition of "wholesale distribution"
 83 for purposes of medical gas requirements; amending s.
 84 499.89, F.S.; conforming provisions; repealing s.
 85 499.01212, F.S., relating to pedigree papers; amending
 86 ss. 409.9201, 499.067, 794.075, and 921.0022, F.S.;
 87 conforming provisions to changes made by the act;
 88 providing an effective date.

89

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

91

92 Section 1. Section 499.003, Florida Statutes, is amended
 93 to read:

94 499.003 Definitions of terms used in this part.—As used in
 95 this part, the term:

96 (1) "Active pharmaceutical ingredient" includes any
 97 substance or mixture of substances intended, represented, or
 98 labeled for use in drug manufacturing that furnishes or is
 99 intended to furnish, in a finished dosage form, any
 100 pharmacological activity or other direct effect in the
 101 diagnosis, cure, mitigation, treatment, therapy, or prevention
 102 of disease in humans or other animals, or to affect the
 103 structure or any function of the body of humans or animals.

104 (2)~~(1)~~ "Advertisement" means any representation

105 disseminated in any manner or by any means, other than by
 106 labeling, for the purpose of inducing, or which is likely to
 107 induce, directly or indirectly, the purchase of drugs, devices,
 108 or cosmetics.

109 (3) "Affiliate" means a business entity that has a
 110 relationship with another business entity in which, directly or
 111 indirectly:

112 (a) The business entity controls, or has the power to
 113 control, the other business entity; or

114 (b) A third party controls, or has the power to control,
 115 both business entities.

116 ~~(2) "Affiliated group" means an affiliated group as~~
 117 ~~defined by s. 1504 of the Internal Revenue Code of 1986, as~~
 118 ~~amended, which is composed of chain drug entities, including at~~
 119 ~~least 50 retail pharmacies, warehouses, or repackagers, which~~
 120 ~~are members of the same affiliated group. The affiliated group~~
 121 ~~must disclose the names of all its members to the department.~~

122 (4) (3) "Affiliated party" means:

123 (a) A director, officer, trustee, partner, or committee
 124 member of a permittee or applicant or a subsidiary or service
 125 corporation of the permittee or applicant;

126 (b) A person who, directly or indirectly, manages,
 127 controls, or oversees the operation of a permittee or applicant,
 128 regardless of whether such person is a partner, shareholder,
 129 manager, member, officer, director, independent contractor, or
 130 employee of the permittee or applicant;

131 (c) A person who has filed or is required to file a
 132 personal information statement pursuant to s. 499.012(9) or is
 133 required to be identified in an application for a permit or to
 134 renew a permit pursuant to s. 499.012(8); or

135 (d) The five largest natural shareholders that own at
 136 least 5 percent of the permittee or applicant.

137 (5)~~(4)~~ "Applicant" means a person applying for a permit or
 138 certification under this part.

139 ~~(5) "Authenticate" means to affirmatively verify upon
 140 receipt of a prescription drug that each transaction listed on
 141 the pedigree paper has occurred.~~

142 ~~(a) A wholesale distributor is not required to open a
 143 sealed, medical convenience kit to authenticate a pedigree paper
 144 for a prescription drug contained within the kit.~~

145 ~~(b) Authentication of a prescription drug included in a
 146 sealed, medical convenience kit shall be limited to verifying
 147 the transaction and pedigree information received.~~

148 (6) "Certificate of free sale" means a document prepared
 149 by the department which certifies a drug, device, or cosmetic,
 150 that is registered with the department, as one that can be
 151 legally sold in the state.

152 (7) "Chain pharmacy warehouse" means a ~~wholesale~~
 153 distributor permitted pursuant to s. 499.01 that maintains a
 154 physical location for prescription drugs that functions solely
 155 as a central warehouse to perform intracompany transfers of such
 156 drugs between members of an affiliate ~~to a member of its~~

157 | ~~affiliated group.~~

158 | (8) "Closed pharmacy" means a pharmacy that is licensed
159 | under chapter 465 and purchases prescription drugs for use by a
160 | limited patient population and not for wholesale distribution or
161 | sale to the public. The term does not include retail pharmacies.

162 | (9) "Color" includes black, white, and intermediate grays.

163 | (10) "Color additive" means, with the exception of any
164 | material that has been or hereafter is exempt under the federal
165 | act, a material that:

166 | (a) Is a dye pigment, or other substance, made by a
167 | process of synthesis or similar artifice, or extracted,
168 | isolated, or otherwise derived, with or without intermediate or
169 | final change of identity from a vegetable, animal, mineral, or
170 | other source; or

171 | (b) When added or applied to a drug or cosmetic or to the
172 | human body, or any part thereof, is capable alone, or through
173 | reaction with other substances, of imparting color thereto.

174 | (11) "Contraband prescription drug" means any adulterated
175 | drug, as defined in s. 499.006, any counterfeit drug, as defined
176 | in this section, and also means any prescription drug for which
177 | a transaction history, transaction information, or transaction
178 | statement ~~pedigree paper~~ does not exist, or for which the
179 | transaction history, transaction information, or transaction
180 | statement ~~pedigree paper~~ in existence has been forged,
181 | counterfeited, falsely created, or contains any altered, false,
182 | or misrepresented matter.

183 (12) "Cosmetic" means an article, with the exception of
 184 soap, that is:

185 (a) Intended to be rubbed, poured, sprinkled, or sprayed
 186 on; introduced into; or otherwise applied to the human body or
 187 any part thereof for cleansing, beautifying, promoting
 188 attractiveness, or altering the appearance; or

189 (b) Intended for use as a component of any such article.

190 (13) "Counterfeit drug," "counterfeit device," or
 191 "counterfeit cosmetic" means a drug, device, or cosmetic which,
 192 or the container, seal, or labeling of which, without
 193 authorization, bears the trademark, trade name, or other
 194 identifying mark, imprint, or device, or any likeness thereof,
 195 of a drug, device, or cosmetic manufacturer, processor, packer,
 196 or distributor other than the person that in fact manufactured,
 197 processed, packed, or distributed that drug, device, or cosmetic
 198 and which thereby falsely purports or is represented to be the
 199 product of, or to have been packed or distributed by, that other
 200 drug, device, or cosmetic manufacturer, processor, packer, or
 201 distributor.

202 (14) "Department" means the Department of Business and
 203 Professional Regulation.

204 (15) "Device" means any instrument, apparatus, implement,
 205 machine, contrivance, implant, in vitro reagent, or other
 206 similar or related article, including its components, parts, or
 207 accessories, which is:

208 (a) Recognized in the current edition of the United States

209 Pharmacopoeia and National Formulary, or any supplement thereof,
 210 (b) Intended for use in the diagnosis, cure, mitigation,
 211 treatment, therapy, or prevention of disease in humans or other
 212 animals, or

213 (c) Intended to affect the structure or any function of
 214 the body of humans or other animals,
 215

216 and that does not achieve any of its principal intended purposes
 217 through chemical action within or on the body of humans or other
 218 animals and which is not dependent upon being metabolized for
 219 the achievement of any of its principal intended purposes.

220 (16) "Distribute" or "distribution" means sale, purchase,
 221 trade, delivery, handling, storage, or receipt ~~to sell; offer to~~
 222 ~~sell; give away; transfer, whether by passage of title, physical~~
 223 ~~movement, or both; deliver; or offer to deliver.~~ The term does
 224 not mean to administer or dispense ~~and does not include the~~
 225 ~~billing and invoicing activities that commonly follow a~~
 226 ~~wholesale distribution transaction.~~

227 ~~(17) "Drop shipment" means the sale of a prescription drug~~
 228 ~~from a manufacturer to a wholesale distributor, where the~~
 229 ~~wholesale distributor takes title to, but not possession of, the~~
 230 ~~prescription drug, and the manufacturer of the prescription drug~~
 231 ~~ships the prescription drug directly to a chain pharmacy~~
 232 ~~warehouse or a person authorized by law to purchase prescription~~
 233 ~~drugs for the purpose of administering or dispensing the drug,~~
 234 ~~as defined in s. 465.003.~~

235 (17)~~(18)~~ "Drug" means an article that is:
 236 (a) Recognized in the current edition of the United States
 237 Pharmacopoeia and National Formulary, official Homeopathic
 238 Pharmacopoeia of the United States, or any supplement to any of
 239 those publications;
 240 (b) Intended for use in the diagnosis, cure, mitigation,
 241 treatment, therapy, or prevention of disease in humans or other
 242 animals;
 243 (c) Intended to affect the structure or any function of
 244 the body of humans or other animals; or
 245 (d) Intended for use as a component of any article
 246 specified in paragraph (a), paragraph (b), or paragraph (c), and
 247 includes active pharmaceutical ingredients, but does not include
 248 devices or their nondrug components, parts, or accessories. ~~For~~
 249 ~~purposes of this paragraph, an "active pharmaceutical~~
 250 ~~ingredient" includes any substance or mixture of substances~~
 251 ~~intended, represented, or labeled for use in drug manufacturing~~
 252 ~~that furnishes or is intended to furnish, in a finished dosage~~
 253 ~~form, any pharmacological activity or other direct effect in the~~
 254 ~~diagnosis, cure, mitigation, treatment, therapy, or prevention~~
 255 ~~of disease in humans or other animals, or to affect the~~
 256 ~~structure or any function of the body of humans or other~~
 257 ~~animals.~~
 258 (18)~~(19)~~ "Establishment" means a place of business which
 259 is at one general physical location and may extend to one or
 260 more contiguous suites, units, floors, or buildings operated and

261 controlled exclusively by entities under common operation and
 262 control. Where multiple buildings are under common exclusive
 263 ownership, operation, and control, an intervening thoroughfare
 264 does not affect the contiguous nature of the buildings. For
 265 purposes of permitting, each suite, unit, floor, or building
 266 must be identified in the most recent permit application.

267 (19)~~(20)~~ "Federal act" means the Federal Food, Drug, and
 268 Cosmetic Act, 21 U.S.C. ss. 301 et seq.; 52 Stat. 1040 et seq.

269 (20)~~(21)~~ "Freight forwarder" means a person who receives
 270 prescription drugs which are owned by another person and
 271 designated by that person for export, and exports those
 272 prescription drugs.

273 (21)~~(22)~~ "Health care entity" means a closed pharmacy or
 274 any person, organization, or business entity that provides
 275 diagnostic, medical, surgical, or dental treatment or care, or
 276 chronic or rehabilitative care, but does not include any
 277 wholesale distributor or retail pharmacy licensed under state
 278 law to deal in prescription drugs. However, a blood
 279 establishment is a health care entity that may engage in the
 280 wholesale distribution of prescription drugs under s.

281 499.01(2)(h)1.c. ~~499.01(2)(g)1.e.~~

282 (22)~~(23)~~ "Health care facility" means a health care
 283 facility licensed under chapter 395.

284 (23)~~(24)~~ "Hospice" means a corporation licensed under part
 285 IV of chapter 400.

286 (24)~~(25)~~ "Hospital" means a facility as defined in s.

287 395.002 and licensed under chapter 395.

288 ~~(25)-(26)~~ "Immediate container" does not include package
 289 liners.

290 ~~(26)-(27)~~ "Label" means a display of written, printed, or
 291 graphic matter upon the immediate container of any drug, device,
 292 or cosmetic. A requirement made by or under authority of this
 293 part or rules adopted under this part that any word, statement,
 294 or other information appear on the label is not complied with
 295 unless such word, statement, or other information also appears
 296 on the outside container or wrapper, if any, of the retail
 297 package of such drug, device, or cosmetic or is easily legible
 298 through the outside container or wrapper.

299 ~~(27)-(28)~~ "Labeling" means all labels and other written,
 300 printed, or graphic matters:

301 (a) Upon a drug, device, or cosmetic, or any of its
 302 containers or wrappers; or

303 (b) Accompanying or related to such drug, device, or
 304 cosmetic.

305 ~~(28)-(29)~~ "Manufacture" means the preparation, deriving,
 306 compounding, propagation, processing, producing, or fabrication
 307 of any drug, device, or cosmetic.

308 ~~(29)-(30)~~ "Manufacturer" means:

309 (a) A person who holds a New Drug Application, an
 310 Abbreviated New Drug Application, a Biologics License
 311 Application, or a New Animal Drug Application approved under the
 312 federal act or a license issued under s. 351 of the Public

313 Health Service Act, 42 U.S.C. s. 262, for such drug or
 314 biologics, or if such drug or biologics is not the subject of an
 315 approved application or license, the person who manufactured the
 316 drug or biologics prepares, derives, manufactures, or produces a
 317 drug, device, or cosmetic;

318 (b) A co-licensed partner of the person described in
 319 paragraph (a) who obtains the drug or biologics directly from a
 320 person described in paragraph (a), paragraph (c), or this
 321 paragraph ~~The holder or holders of a New Drug Application (NDA),~~
 322 ~~an Abbreviated New Drug Application (ANDA), a Biologics License~~
 323 ~~Application (BLA), or a New Animal Drug Application (NADA),~~
 324 ~~provided such application has become effective or is otherwise~~
 325 ~~approved consistent with s. 499.023;~~

326 (c) An affiliate of a person described in paragraph (a),
 327 paragraph (b), or this paragraph that receives the drug or
 328 biologics directly from a person described in paragraph (a),
 329 paragraph (b), or this paragraph ~~A private label distributor for~~
 330 ~~whom the private label distributor's prescription drugs are~~
 331 ~~originally manufactured and labeled for the distributor and have~~
 332 ~~not been repackaged; or~~

333 (d) A person that manufactures a device or a cosmetic. A
 334 ~~person registered under the federal act as a manufacturer of a~~
 335 ~~prescription drug, who is described in paragraph (a), paragraph~~
 336 ~~(b), or paragraph (c), who has entered into a written agreement~~
 337 ~~with another prescription drug manufacturer that authorizes~~
 338 ~~either manufacturer to distribute the prescription drug~~

339 ~~identified in the agreement as the manufacturer of that drug~~
 340 ~~consistent with the federal act and its implementing~~
 341 ~~regulations;~~

342 ~~(e) A member of an affiliated group that includes, but is~~
 343 ~~not limited to, persons described in paragraph (a), paragraph~~
 344 ~~(b), paragraph (c), or paragraph (d), which member distributes~~
 345 ~~prescription drugs, whether or not obtaining title to the drugs,~~
 346 ~~only for the manufacturer of the drugs who is also a member of~~
 347 ~~the affiliated group. As used in this paragraph, the term~~
 348 ~~"affiliated group" means an affiliated group as defined in s.~~
 349 ~~1504 of the Internal Revenue Code of 1986, as amended. The~~
 350 ~~manufacturer must disclose the names of all of its affiliated~~
 351 ~~group members to the department; or~~

352 ~~(f) A person permitted as a third party logistics~~
 353 ~~provider, only while providing warehousing, distribution, or~~
 354 ~~other logistics services on behalf of a person described in~~
 355 ~~paragraph (a), paragraph (b), paragraph (c), paragraph (d), or~~
 356 ~~paragraph (e).~~

357
 358 The term does not include a pharmacy that is operating in
 359 compliance with pharmacy practice standards as defined in
 360 chapter 465 and rules adopted under that chapter.

361 (30) ~~(31)~~ "Medical convenience kit" means packages or units
 362 that contain combination products as defined in 21 C.F.R. s.
 363 3.2(e)(2).

364 (31) ~~(32)~~ "Medical gas" means any liquefied or vaporized

365 gas that is a prescription drug, whether alone or in combination
 366 with other gases, and as defined in the federal act.

367 (32)~~(33)~~ "New drug" means:

368 (a) Any drug the composition of which is such that the
 369 drug is not generally recognized, among experts qualified by
 370 scientific training and experience to evaluate the safety and
 371 effectiveness of drugs, as safe and effective for use under the
 372 conditions prescribed, recommended, or suggested in the labeling
 373 of that drug; or

374 (b) Any drug the composition of which is such that the
 375 drug, as a result of investigations to determine its safety and
 376 effectiveness for use under certain conditions, has been
 377 recognized for use under such conditions, but which drug has
 378 not, other than in those investigations, been used to a material
 379 extent or for a material time under such conditions.

380 ~~(34) "Normal distribution chain" means a wholesale~~
 381 ~~distribution of a prescription drug in which the wholesale~~
 382 ~~distributor or its wholly owned subsidiary purchases and~~
 383 ~~receives the specific unit of the prescription drug directly~~
 384 ~~from the manufacturer and distributes the prescription drug~~
 385 ~~directly, or through up to two intracompany transfers, to a~~
 386 ~~chain pharmacy warehouse or a person authorized by law to~~
 387 ~~purchase prescription drugs for the purpose of administering or~~
 388 ~~dispensing the drug, as defined in s. 465.003. For purposes of~~
 389 ~~this subsection, the term "intracompany" means any transaction~~
 390 ~~or transfer between any parent, division, or subsidiary wholly~~

391 ~~owned by a corporate entity.~~

392 (33)~~(35)~~ "Nursing home" means a facility licensed under
393 part II of chapter 400.

394 (34)~~(36)~~ "Official compendium" means the current edition
395 of the official United States Pharmacopoeia and National
396 Formulary, or any supplement thereto.

397 ~~(37) "Pedigree paper" means a document in written or
398 electronic form approved by the department which contains
399 information required by s. 499.01212 regarding the sale and
400 distribution of any given prescription drug.~~

401 (35)~~(38)~~ "Permittee" means any person holding a permit
402 issued under this chapter pursuant to s. 499.012.

403 (36)~~(39)~~ "Person" means any individual, child, joint
404 venture, syndicate, fiduciary, partnership, corporation,
405 division of a corporation, firm, trust, business trust, company,
406 estate, public or private institution, association,
407 organization, group, city, county, city and county, political
408 subdivision of this state, other governmental agency within this
409 state, and any representative, agent, or agency of any of the
410 foregoing, or any other group or combination of the foregoing.

411 (37)~~(40)~~ "Pharmacist" means a person licensed under
412 chapter 465.

413 (38)~~(41)~~ "Pharmacy" means an entity licensed under chapter
414 465.

415 (39)~~(42)~~ "Prepackaged drug product" means a drug that
416 originally was in finished packaged form sealed by a

417 manufacturer and that is placed in a properly labeled container
 418 by a pharmacy or practitioner authorized to dispense pursuant to
 419 chapter 465 for the purpose of dispensing in the establishment
 420 in which the prepackaging occurred.

421 (40)~~(43)~~ "Prescription drug" means a prescription,
 422 medicinal, or legend drug, including, but not limited to,
 423 finished dosage forms or active pharmaceutical ingredients
 424 subject to, defined by, or described by s. 503(b) of the federal
 425 act or s. 465.003(8), s. 499.007(13), subsection (31)~~(32)~~, or
 426 subsection (47)~~(52)~~, except that an active pharmaceutical
 427 ingredient is a prescription drug only if substantially all
 428 finished dosage forms in which it may be lawfully dispensed or
 429 administered in this state are also prescription drugs.

430 (41)~~(44)~~ "Prescription drug label" means any display of
 431 written, printed, or graphic matter upon the immediate container
 432 of any prescription drug before it is dispensed ~~prior to its~~
 433 ~~dispensing~~ to an individual patient pursuant to a prescription
 434 of a practitioner authorized by law to prescribe.

435 (42)~~(45)~~ "Prescription label" means any display of
 436 written, printed, or graphic matter upon the immediate container
 437 of any prescription drug dispensed pursuant to a prescription of
 438 a practitioner authorized by law to prescribe.

439 ~~(46) "Primary wholesale distributor" means any wholesale~~
 440 ~~distributor that:~~

441 ~~(a) Purchased 90 percent or more of the total dollar~~
 442 ~~volume of its purchases of prescription drugs directly from~~

443 ~~manufacturers in the previous year; and~~
 444 ~~(b)1. Directly purchased prescription drugs from not fewer~~
 445 ~~than 50 different prescription drug manufacturers in the~~
 446 ~~previous year; or~~
 447 ~~2. Has, or the affiliated group, as defined in s. 1504 of~~
 448 ~~the Internal Revenue Code, of which the wholesale distributor is~~
 449 ~~a member has, not fewer than 250 employees.~~
 450 ~~(c) For purposes of this subsection, "directly from~~
 451 ~~manufacturers" means:~~
 452 ~~1. Purchases made by the wholesale distributor directly~~
 453 ~~from the manufacturer of prescription drugs; and~~
 454 ~~2. Transfers from a member of an affiliated group, as~~
 455 ~~defined in s. 1504 of the Internal Revenue Code, of which the~~
 456 ~~wholesale distributor is a member, if:~~
 457 ~~a. The affiliated group purchases 90 percent or more of~~
 458 ~~the total dollar volume of its purchases of prescription drugs~~
 459 ~~from the manufacturer in the previous year; and~~
 460 ~~b. The wholesale distributor discloses to the department~~
 461 ~~the names of all members of the affiliated group of which the~~
 462 ~~wholesale distributor is a member and the affiliated group~~
 463 ~~agrees in writing to provide records on prescription drug~~
 464 ~~purchases by the members of the affiliated group not later than~~
 465 ~~48 hours after the department requests access to such records,~~
 466 ~~regardless of the location where the records are stored.~~
 467 ~~(43)-(47)~~ "Proprietary drug," or "OTC drug," means a patent
 468 or over-the-counter drug in its unbroken, original package,

469 | which drug is sold to the public by, or under the authority of,
 470 | the manufacturer or primary distributor thereof, is not
 471 | misbranded under the provisions of this part, and can be
 472 | purchased without a prescription.

473 | ~~(44)(48)~~ "Repackage" includes repacking or otherwise
 474 | changing the container, wrapper, or labeling to further the
 475 | distribution of the drug, device, or cosmetic.

476 | ~~(45)(49)~~ "Repackager" means a person who repackages. The
 477 | term excludes pharmacies that are operating in compliance with
 478 | pharmacy practice standards as defined in chapter 465 and rules
 479 | adopted under that chapter.

480 | ~~(46)(50)~~ "Retail pharmacy" means a community pharmacy
 481 | licensed under chapter 465 that purchases prescription drugs at
 482 | fair market prices and provides prescription services to the
 483 | public.

484 | ~~(51)~~ "~~Secondary wholesale distributor~~" means a wholesale
 485 | ~~distributor that is not a primary wholesale distributor.~~

486 | ~~(47)(52)~~ "Veterinary prescription drug" means a
 487 | prescription drug intended solely for veterinary use. The label
 488 | of the drug must bear the statement, "Caution: Federal law
 489 | restricts this drug to sale by or on the order of a licensed
 490 | veterinarian."

491 | ~~(48)(53)~~ "Wholesale distribution" means the distribution
 492 | of a prescription drug to a person ~~drugs to persons~~ other than a
 493 | consumer or patient, or the receipt of a prescription drug by a
 494 | person other than the consumer or patient, but does not include:

495 (a) Any of the following activities, which is not a
 496 violation of s. 499.005(21) if such activity is conducted in
 497 accordance with s. 499.01(2)(h) ~~499.01(2)(g)~~:

498 1. The purchase or other acquisition by a hospital or
 499 other health care entity that is a member of a group purchasing
 500 organization of a prescription drug for its own use from the
 501 group purchasing organization or from other hospitals or health
 502 care entities that are members of that organization.

503 2. The distribution ~~sale, purchase, or trade~~ of a
 504 prescription drug or an offer to distribute ~~sell, purchase, or~~
 505 ~~trade~~ a prescription drug by a charitable organization described
 506 in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended
 507 and revised, to a nonprofit affiliate of the organization to the
 508 extent otherwise permitted by law.

509 3. The distribution ~~sale, purchase, or trade~~ of a
 510 prescription drug ~~or an offer to sell, purchase, or trade a~~
 511 ~~prescription drug~~ among hospitals or other health care entities
 512 that are under common control. For purposes of this
 513 subparagraph, "common control" means the power to direct or
 514 cause the direction of the management and policies of a person
 515 or an organization, whether by ownership of stock, by voting
 516 rights, by contract, or otherwise.

517 4. The distribution ~~sale, purchase, trade, or other~~
 518 ~~transfer~~ of a prescription drug from or for any federal, state,
 519 or local government agency or any entity eligible to purchase
 520 prescription drugs at public health services prices pursuant to

521 | Pub. L. No. 102-585, s. 602 to a contract provider or its
 522 | subcontractor for eligible patients of the agency or entity
 523 | under the following conditions:

524 | a. The agency or entity must obtain written authorization
 525 | for the distribution ~~sale, purchase, trade, or other transfer~~ of
 526 | a prescription drug under this subparagraph from the Secretary
 527 | of Business and Professional Regulation or his or her designee.

528 | b. The contract provider or subcontractor must be
 529 | authorized by law to administer or dispense prescription drugs.

530 | c. In the case of a subcontractor, the agency or entity
 531 | must be a party to and execute the subcontract.

532 | d. The contract provider and subcontractor must maintain
 533 | and produce immediately for inspection all records of movement
 534 | or transfer of all the prescription drugs belonging to the
 535 | agency or entity, including, but not limited to, the records of
 536 | receipt and disposition of prescription drugs. Each contractor
 537 | and subcontractor dispensing or administering these drugs must
 538 | maintain and produce records documenting the dispensing or
 539 | administration. Records that are required to be maintained
 540 | include, but are not limited to, a perpetual inventory itemizing
 541 | drugs received and drugs dispensed by prescription number or
 542 | administered by patient identifier, which must be submitted to
 543 | the agency or entity quarterly.

544 | e. The contract provider or subcontractor may administer
 545 | or dispense the prescription drugs only to the eligible patients
 546 | of the agency or entity or must return the prescription drugs

547 for or to the agency or entity. The contract provider or
 548 subcontractor must require proof from each person seeking to
 549 fill a prescription or obtain treatment that the person is an
 550 eligible patient of the agency or entity and must, at a minimum,
 551 maintain a copy of this proof as part of the records of the
 552 contractor or subcontractor required under sub-subparagraph d.

553 f. In addition to the departmental inspection authority
 554 set forth in s. 499.051, the establishment of the contract
 555 provider and subcontractor and all records pertaining to
 556 prescription drugs subject to this subparagraph shall be subject
 557 to inspection by the agency or entity. All records relating to
 558 prescription drugs of a manufacturer under this subparagraph
 559 shall be subject to audit by the manufacturer of those drugs,
 560 without identifying individual patient information.

561 (b) Any of the following activities, which is not a
 562 violation of s. 499.005(21) if such activity is conducted in
 563 accordance with rules established by the department:

564 1. The distribution ~~sale, purchase, or trade~~ of a
 565 prescription drug among federal, state, or local government
 566 health care entities that are under common control and are
 567 authorized to purchase such prescription drug.

568 2. The distribution ~~sale, purchase, or trade~~ of a
 569 prescription drug or ~~an~~ offer to distribute ~~sell, purchase, or~~
 570 ~~trade~~ a prescription drug for emergency medical reasons, which
 571 may include. ~~For purposes of this subparagraph, The term~~
 572 ~~"emergency medical reasons"~~ includes transfers of prescription

573 | drugs by a retail pharmacy to another retail pharmacy to
 574 | alleviate a temporary shortage. For purposes of this
 575 | subparagraph, a drug shortage not caused by a public health
 576 | emergency does not constitute an emergency medical reason.

577 | 3. The distribution ~~transfer~~ of a prescription drug
 578 | acquired by a medical director on behalf of a licensed emergency
 579 | medical services provider to that emergency medical services
 580 | provider and its transport vehicles for use in accordance with
 581 | the provider's license under chapter 401.

582 | ~~4. The revocation of a sale or the return of a~~
 583 | ~~prescription drug to the person's prescription drug wholesale~~
 584 | ~~supplier.~~

585 | ~~4.5.~~ The donation of a prescription drug by a health care
 586 | entity to a charitable organization that has been granted an
 587 | exemption under s. 501(c)(3) of the Internal Revenue Code of
 588 | 1986, as amended, and that is authorized to possess prescription
 589 | drugs.

590 | ~~5.6.~~ The distribution ~~transfer~~ of a prescription drug by a
 591 | person authorized to purchase or receive prescription drugs to a
 592 | person licensed or permitted to handle reverse distributions or
 593 | destruction under the laws of the jurisdiction in which the
 594 | person handling the reverse distribution or destruction receives
 595 | the drug.

596 | ~~6.7.~~ The distribution ~~transfer~~ of a prescription drug by a
 597 | hospital or other health care entity to a person licensed under
 598 | this part to repackage prescription drugs for the purpose of

599 | repackaging the prescription drug for use by that hospital, or
 600 | other health care entity and other health care entities that are
 601 | under common control, if ownership of the prescription drugs
 602 | remains with the hospital or other health care entity at all
 603 | times. In addition to the recordkeeping requirements of s.
 604 | 499.0121(6), the hospital or health care entity that distributes
 605 | ~~transfers~~ prescription drugs pursuant to this subparagraph must
 606 | reconcile all drugs distributed ~~transferred~~ and returned and
 607 | resolve any discrepancies in a timely manner.

608 | (c) Intracompany distribution of any drug between members
 609 | of an affiliate or within a manufacturer.

610 | (d) The distribution of a prescription drug by the
 611 | manufacturer of the prescription drug.

612 | (e)-(e) The distribution of prescription drug samples by
 613 | manufacturers' representatives or distributors' representatives
 614 | conducted in accordance with s. 499.028.

615 | (f) The distribution of a prescription drug by a third-
 616 | party logistics provider permitted or licensed pursuant to and
 617 | operating in compliance with the laws of this state and federal
 618 | law if such third-party logistics provider does not take
 619 | ownership of the prescription drug.

620 | (g) The distribution of a prescription drug, or an offer
 621 | to distribute a prescription drug by a repackager registered as
 622 | a drug establishment with the United States Food and Drug
 623 | Administration that has taken ownership or possession of the
 624 | prescription drug and repacks it in accordance with this part.

625 (h) The purchase or other acquisition by a dispenser,
 626 hospital, or other health care entity of a prescription drug for
 627 use by such dispenser, hospital, or other health care entity.

628 (i) The distribution of a prescription drug by a hospital
 629 or other health care entity, or by a wholesale distributor or
 630 manufacturer operating at the direction of the hospital or other
 631 health care entity, to a repackager for the purpose of
 632 repackaging the prescription drug for use by that hospital, or
 633 other health care entity and other health care entities that are
 634 under common control, if ownership of the prescription drug
 635 remains with the hospital or other health care entity at all
 636 times.

637 (j)~~(d)~~ The distribution ~~sale, purchase, or trade~~ of blood
 638 and blood components intended for transfusion. As used in this
 639 paragraph, the term "blood" means whole blood collected from a
 640 single donor and processed for transfusion or further
 641 manufacturing, and the term "blood components" means that part
 642 of the blood separated by physical or mechanical means.

643 (k)~~(e)~~ The lawful dispensing of a prescription drug in
 644 accordance with chapter 465.

645 (l)~~(f)~~ The distribution ~~sale, purchase, or trade~~ of a
 646 prescription drug between pharmacies as a result of a sale,
 647 transfer, merger, or consolidation of all or part of the
 648 business of the pharmacies from or with another pharmacy,
 649 whether accomplished as a purchase and sale of stock or of
 650 business assets.

651 (m) The distribution of minimal quantities of prescription
 652 drugs by a licensed retail pharmacy to a licensed practitioner
 653 for office use in compliance with chapter 465 and rules adopted
 654 thereunder.

655 (n) The distribution of an intravenous prescription drug
 656 that, by its formulation, is intended for the replenishment of
 657 fluids and electrolytes, such as sodium, chloride, and potassium
 658 or calories, such as dextrose and amino acids.

659 (o) The distribution of an intravenous prescription drug
 660 used to maintain the equilibrium of water and minerals in the
 661 body, such as dialysis solutions.

662 (p) The distribution of a prescription drug that is
 663 intended for irrigation or sterile water, whether intended for
 664 such purposes or for injection.

665 (q) The distribution of an exempt medical convenience kit
 666 pursuant to 21 U.S.C. s. 353(e) (4) (M).

667 (r) A common carrier that transports a prescription drug,
 668 if the common carrier does not take ownership of the
 669 prescription drug.

670 (s) Saleable drug returns when conducted by a dispenser.

671 (t) Facilitating the distribution of a prescription drug
 672 by providing solely administrative services, including
 673 processing of orders and payments.

674 (u) The distribution by a charitable organization
 675 described in s. 501(c) (3) of the Internal Revenue Code of
 676 prescription drugs donated to or supplied at a reduced price to

677 the charitable organization to:
 678 1. A licensed health care practitioner, as defined in s.
 679 456.001, who is authorized under the appropriate practice act to
 680 prescribe and administer prescription drugs;
 681 2. A health care clinic establishment permitted pursuant
 682 to chapter 499; or
 683 3. The Department of Health or the licensed medical
 684 director of a government agency health care entity, authorized
 685 to possess prescription drugs, for storage and use in the
 686 treatment of persons in need of emergency medical services,
 687 including controlling communicable diseases or providing
 688 protection from unsafe conditions that pose an imminent threat
 689 to public health,
 690
 691 if the distributor and the receiving entity receive no direct or
 692 indirect financial benefit other than tax benefits related to
 693 charitable contributions. Distributions under this section that
 694 involve controlled substances must comply with all state and
 695 federal regulations pertaining to the handling of controlled
 696 substances.
 697 (v) The distribution of medical gas pursuant to part III
 698 of this chapter.
 699 (49)(54) "Wholesale distributor" means a ~~any~~ person, other
 700 than a manufacturer, a manufacturer's co-licensed partner, a
 701 third-party logistics provider, or a repackager, who is engaged
 702 in wholesale distribution ~~of prescription drugs in or into this~~

703 ~~state, including, but not limited to, manufacturers,~~
 704 ~~repackagers, own-label distributors, jobbers, private-label~~
 705 ~~distributors, brokers, warehouses, including manufacturers' and~~
 706 ~~distributors' warehouses, chain drug warehouses, and wholesale~~
 707 ~~drug warehouses, independent wholesale drug traders, exporters,~~
 708 ~~retail pharmacies, and the agents thereof that conduct wholesale~~
 709 ~~distributions.~~

710 Section 2. Subsections (21), (28), and (29) of section
 711 499.005, Florida Statutes, are amended to read:

712 499.005 Prohibited acts.—It is unlawful for a person to
 713 perform or cause the performance of any of the following acts in
 714 this state:

715 (21) The wholesale distribution of any prescription drug
 716 that was:

717 (a) Purchased by a public or private hospital or other
 718 health care entity; or

719 (b) Donated or supplied at a reduced price to a charitable
 720 organization,

721
 722 unless the wholesale distribution of the prescription drug is
 723 authorized in s. 499.01(2)(h) l.c. ~~499.01(2)(g)~~ l.c.

724 (28) Failure to acquire or deliver a transaction history,
 725 transaction information, or transaction statement ~~pedigree paper~~
 726 as required under this part and rules adopted under this part.

727 ~~(29) The receipt of a prescription drug pursuant to a~~
 728 ~~wholesale distribution without having previously received or~~

729 ~~simultaneously receiving a pedigree paper that was attested to~~
 730 ~~as accurate and complete by the wholesale distributor as~~
 731 ~~required under this part.~~

732 Section 3. Subsections (4) through (17) of section
 733 499.0051, Florida Statutes, are renumbered as subsections (3)
 734 through (16), respectively, and subsections (1) and (2), present
 735 subsection (3), paragraphs (h) and (i) of present subsection
 736 (12), and paragraph (d) of present subsection (13) of that
 737 section are amended, to read:

738 499.0051 Criminal acts.—

739 (1) FAILURE TO MAINTAIN OR DELIVER TRANSACTION HISTORY,
 740 TRANSACTION INFORMATION, OR TRANSACTION STATEMENT ~~PEDIGREE~~
 741 ~~PAPERS.~~—

742 (a) A person, ~~other than a manufacturer,~~ engaged in the
 743 ~~wholesale~~ distribution of prescription drugs who fails to
 744 deliver to another person a complete and accurate transaction
 745 history, transaction information, or transaction statement
 746 ~~pedigree papers~~ concerning a prescription drug or contraband
 747 prescription drug, as required by this chapter and rules adopted
 748 under this chapter, before ~~prior to,~~ or simultaneous with, the
 749 transfer of the prescription drug or contraband prescription
 750 drug to another person commits a felony of the third degree,
 751 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

752 (b) A person engaged in the ~~wholesale~~ distribution of
 753 prescription drugs who fails to acquire a complete and accurate
 754 transaction history, transaction information, or transaction

755 statement ~~pedigree papers~~ concerning a prescription drug or
 756 contraband prescription drug, as required by this chapter and
 757 rules adopted under this chapter, before ~~prior to~~, or
 758 simultaneous with, the receipt of the prescription drug or
 759 contraband prescription drug from another person commits a
 760 felony of the third degree, punishable as provided in s.
 761 775.082, s. 775.083, or s. 775.084.

762 (c) Any person who knowingly destroys, alters, conceals,
 763 or fails to maintain a complete and accurate transaction
 764 history, transaction information, or transaction statement
 765 ~~pedigree papers~~ concerning any prescription drug or contraband
 766 prescription drug, as required by this chapter and rules adopted
 767 under this chapter, in his or her possession commits a felony of
 768 the third degree, punishable as provided in s. 775.082, s.
 769 775.083, or s. 775.084.

770 ~~(2) FAILURE TO AUTHENTICATE PEDIGREE PAPERS. Effective~~
 771 ~~July 1, 2006:~~

772 ~~(a) A person engaged in the wholesale distribution of~~
 773 ~~prescription drugs who is in possession of pedigree papers~~
 774 ~~concerning prescription drugs or contraband prescription drugs~~
 775 ~~and who fails to authenticate the matters contained in the~~
 776 ~~pedigree papers and who nevertheless attempts to further~~
 777 ~~distribute prescription drugs or contraband prescription drugs~~
 778 ~~commits a felony of the third degree, punishable as provided in~~
 779 ~~s. 775.082, s. 775.083, or s. 775.084.~~

780 ~~(b) A person in possession of pedigree papers concerning~~

781 ~~prescription drugs or contraband prescription drugs who falsely~~
 782 ~~swears or certifies that he or she has authenticated the matters~~
 783 ~~contained in the pedigree papers commits a felony of the third~~
 784 ~~degree, punishable as provided in s. 775.082, s. 775.083, or s.~~
 785 ~~775.084.~~

786 (2)~~(3)~~ KNOWING FORGERY OF TRANSACTION HISTORY, TRANSACTION
 787 INFORMATION, OR TRANSACTION STATEMENT ~~PEDIGREE PAPERS~~.—A person
 788 who knowingly forges, counterfeits, or falsely creates any
 789 transaction history, transaction information, or transaction
 790 statement ~~pedigree paper~~; who falsely represents any factual
 791 matter contained on any transaction history, transaction
 792 information, or transaction statement ~~pedigree paper~~; or who
 793 knowingly omits to record material information required to be
 794 recorded in a transaction history, transaction information, or
 795 transaction statement ~~pedigree paper~~, commits a felony of the
 796 second degree, punishable as provided in s. 775.082, s. 775.083,
 797 or s. 775.084.

798 (11)~~(12)~~ ADULTERATED AND MISBRANDED DRUGS; FALSE
 799 ADVERTISEMENT; FAILURE TO MAINTAIN RECORDS RELATING TO DRUGS.—
 800 Any person who violates any of the following provisions commits
 801 a misdemeanor of the second degree, punishable as provided in s.
 802 775.082 or s. 775.083; but, if the violation is committed after
 803 a conviction of such person under this subsection has become
 804 final, such person commits a misdemeanor of the first degree,
 805 punishable as provided in s. 775.082 or s. 775.083, or as
 806 otherwise provided in this part:

807 (h) The failure to maintain records related to a drug as
 808 required by this part and rules adopted under this part, except
 809 for transaction histories, transaction information, or
 810 transaction statements ~~pedigree papers~~, invoices, or shipping
 811 documents related to prescription drugs.

812 (i) The possession of any drug in violation of this part,
 813 except if the violation relates to a deficiency in transaction
 814 histories, transaction information, or transaction statements
 815 ~~pedigree papers~~.

816 (12) ~~(13)~~ REFUSAL TO ALLOW INSPECTION; SELLING, PURCHASING,
 817 OR TRADING DRUG SAMPLES; FAILURE TO MAINTAIN RECORDS RELATING TO
 818 PRESCRIPTION DRUGS.—Any person who violates any of the following
 819 provisions commits a felony of the third degree, punishable as
 820 provided in s. 775.082, s. 775.083, or s. 775.084, or as
 821 otherwise provided in this part:

822 (d) The failure to receive, maintain, or provide invoices
 823 and shipping documents, ~~other than pedigree papers~~, if
 824 applicable, related to the distribution of a prescription drug.

825 Section 4. Subsection (10) of section 499.006, Florida
 826 Statutes, is amended to read:

827 499.006 Adulterated drug or device.—A drug or device is
 828 adulterated:

829 (10) If it is a prescription drug for which the required
 830 transaction history, transaction information, or transaction
 831 statement ~~pedigree paper~~ is nonexistent, fraudulent, or
 832 incomplete under the requirements of this part or applicable

833 rules, or that has been purchased, held, sold, or distributed at
 834 any time by a person not authorized under federal or state law
 835 to do so; or

836 Section 5. Section 499.01, Florida Statutes, is amended to
 837 read:

838 499.01 Permits.—

839 (1) Before ~~Prior to~~ operating, a permit is required for
 840 each person and establishment that intends to operate as:

841 (a) A prescription drug manufacturer;

842 (b) A prescription drug repackager;

843 (c) A nonresident prescription drug manufacturer;

844 (d) A nonresident prescription drug repackager;

845 (e) ~~(d)~~ A prescription drug wholesale distributor;

846 (f) ~~(e)~~ An out-of-state prescription drug wholesale
 847 distributor;

848 (g) ~~(f)~~ A retail pharmacy drug wholesale distributor;

849 (h) ~~(g)~~ A restricted prescription drug distributor;

850 (i) ~~(h)~~ A complimentary drug distributor;

851 (j) ~~(i)~~ A freight forwarder;

852 (k) ~~(j)~~ A veterinary prescription drug retail
 853 establishment;

854 (l) ~~(k)~~ A veterinary prescription drug wholesale
 855 distributor;

856 (m) ~~(l)~~ A limited prescription drug veterinary wholesale
 857 distributor;

858 (n) ~~(m)~~ An over-the-counter drug manufacturer;

859 | ~~(o)~~~~(n)~~ A device manufacturer;

860 | ~~(p)~~~~(e)~~ A cosmetic manufacturer;

861 | ~~(q)~~~~(p)~~ A third party logistics provider; or

862 | ~~(r)~~~~(q)~~ A health care clinic establishment.

863 | (2) The following permits are established:

864 | (a) Prescription drug manufacturer permit.—A prescription

865 | drug manufacturer permit is required for any person that is a

866 | manufacturer of a prescription drug and that manufactures or

867 | distributes such prescription drugs in this state.

868 | 1. A person that operates an establishment permitted as a

869 | prescription drug manufacturer may engage in wholesale

870 | distribution of prescription drugs for which the person is the

871 | manufacturer ~~manufactured at that establishment~~ and must comply

872 | with s. 499.0121 and all other ~~of the~~ provisions of this part,

873 | ~~except s. 499.01212,~~ and ~~the~~ rules adopted under this part,

874 | ~~except s. 499.01212, which apply to a wholesale distributor. The~~

875 | department shall adopt rules for issuing a virtual prescription

876 | drug manufacturer permit to a person who engages in the

877 | manufacture of prescription drugs but does not make or take

878 | physical possession of any prescription drugs. The rules adopted

879 | by the department under this section may exempt virtual

880 | manufacturers from certain establishment, security, and storage

881 | requirements set forth in s. 499.0121.

882 | 2. A prescription drug manufacturer must comply with all

883 | appropriate state and federal good manufacturing practices.

884 | 3. A blood establishment, as defined in s. 381.06014,

885 operating in a manner consistent with the provisions of 21
 886 C.F.R. parts 211 and 600-640, and manufacturing only the
 887 prescription drugs described in s. 499.003(48)(j) ~~499.003(53)(d)~~
 888 is not required to be permitted as a prescription drug
 889 manufacturer under this paragraph or to register products under
 890 s. 499.015.

891 (b) Prescription drug repackager permit.—A prescription
 892 drug repackager permit is required for any person that
 893 repackages a prescription drug in this state.

894 1. A person that operates an establishment permitted as a
 895 prescription drug repackager may engage in ~~wholesale~~
 896 distribution of prescription drugs repackaged at that
 897 establishment and must comply with all of the provisions of this
 898 part and the rules adopted under this part that apply to a
 899 prescription drug manufacturer ~~wholesale distributor~~.

900 2. A prescription drug repackager must comply with all
 901 appropriate state and federal good manufacturing practices.

902 (c) Nonresident prescription drug manufacturer permit.—A
 903 nonresident prescription drug manufacturer permit is required
 904 for any person that is a manufacturer of prescription drugs,
 905 unless permitted as a third party logistics provider, located
 906 outside of this state or outside the United States and that
 907 engages in the ~~wholesale~~ distribution in this state of such
 908 prescription drugs. Each such manufacturer must be permitted by
 909 the department and comply with all of the provisions required of
 910 a prescription drug manufacturer ~~wholesale distributor~~ under

911 | this part, ~~except s. 499.01212.~~ The department shall adopt rules
 912 | for issuing a virtual nonresident prescription drug manufacturer
 913 | permit to a person who engages in the manufacture of
 914 | prescription drugs but does not make or take physical possession
 915 | of any prescription drugs. The rules adopted by the department
 916 | under this section may exempt virtual nonresident manufacturers
 917 | from certain establishment, security, and storage requirements
 918 | set forth in s. 499.0121.

919 | 1. A person that distributes prescription drugs for which
 920 | the person is not the manufacturer must also obtain an out-of-
 921 | state prescription drug wholesale distributor permit or third
 922 | party logistics provider permit pursuant to this section to
 923 | engage in the ~~wholesale~~ distribution of such prescription drugs
 924 | when required by this part. This subparagraph does not apply to
 925 | a manufacturer that distributes prescription drugs only for the
 926 | manufacturer of the prescription drugs where both manufacturers
 927 | are affiliates ~~as defined in s. 499.003(30)(e).~~

928 | 2. Any such person must comply with the licensing or
 929 | permitting requirements of the jurisdiction in which the
 930 | establishment is located and the federal act, and any
 931 | prescription drug distributed ~~product wholesaled~~ into this state
 932 | must comply with this part. If a person intends to import
 933 | prescription drugs from a foreign country into this state, the
 934 | nonresident prescription drug manufacturer must provide to the
 935 | department a list identifying each prescription drug it intends
 936 | to import and document approval by the United States Food and

937 Drug Administration for such importation.

938 (d) Nonresident prescription drug repackager permit.-A
 939 nonresident prescription drug repackager permit is required for
 940 any person located outside of this state, but within the United
 941 States or its territories, that repackages prescription drugs
 942 and engages in the distribution of such prescription drugs into
 943 this state.

944 1. A nonresident prescription drug repackager must comply
 945 with all of the provisions of this section and the rules adopted
 946 under this section that apply to a prescription drug
 947 manufacturer.

948 2. A nonresident prescription drug repackager must be
 949 permitted by the department and comply with all appropriate
 950 state and federal good manufacturing practices.

951 3. A nonresident prescription drug repackager must be
 952 registered as a drug establishment with the United States Food
 953 and Drug Administration.

954 (e)~~(d)~~ Prescription drug wholesale distributor permit.-A
 955 prescription drug wholesale distributor permit is required for
 956 any person who is a wholesale distributor of prescription drugs
 957 and that ~~may engage in the wholesale~~ distributes such
 958 ~~distribution of prescription drugs in this state. A prescription~~
 959 ~~drug wholesale distributor that applies to the department for a~~
 960 ~~new permit or the renewal of a permit must submit a bond of~~
 961 ~~\$100,000, or other equivalent means of security acceptable to~~
 962 ~~the department, such as an irrevocable letter of credit or a~~

963 ~~deposit in a trust account or financial institution, payable to~~
 964 ~~the Professional Regulation Trust Fund. The purpose of the bond~~
 965 ~~is to secure payment of any administrative penalties imposed by~~
 966 ~~the department and any fees and costs incurred by the department~~
 967 ~~regarding that permit which are authorized under state law and~~
 968 ~~which the permittee fails to pay 30 days after the fine or costs~~
 969 ~~become final. The department may make a claim against such bond~~
 970 ~~or security until 1 year after the permittee's license ceases to~~
 971 ~~be valid or until 60 days after any administrative or legal~~
 972 ~~proceeding authorized in this part which involves the permittee~~
 973 ~~is concluded, including any appeal, whichever occurs later. The~~
 974 department may adopt rules for issuing a prescription drug
 975 wholesale distributor-broker permit to a person who engages in
 976 the wholesale distribution of prescription drugs and does not
 977 take physical possession of any prescription drugs.

978 (f)(e) Out-of-state prescription drug wholesale
 979 distributor permit.—An out-of-state prescription drug wholesale
 980 distributor permit is required for any person that is a
 981 wholesale distributor located outside this state, but within the
 982 United States or its territories, which engages in the wholesale
 983 distribution of prescription drugs into this state ~~and which~~
 984 ~~must be permitted by the department and comply with all the~~
 985 ~~provisions required of a wholesale distributor under this part.~~
 986 ~~An out-of-state prescription drug wholesale distributor that~~
 987 ~~applies to the department for a new permit or the renewal of a~~
 988 ~~permit must submit a bond of \$100,000, or other equivalent means~~

989 ~~of security acceptable to the department, such as an irrevocable~~
 990 ~~letter of credit or a deposit in a trust account or financial~~
 991 ~~institution, payable to the Professional Regulation Trust Fund.~~
 992 ~~The purpose of the bond is to secure payment of any~~
 993 ~~administrative penalties imposed by the department and any fees~~
 994 ~~and costs incurred by the department regarding that permit which~~
 995 ~~are authorized under state law and which the permittee fails to~~
 996 ~~pay 30 days after the fine or costs become final. The department~~
 997 ~~may make a claim against such bond or security until 1 year~~
 998 ~~after the permittee's license ceases to be valid or until 60~~
 999 ~~days after any administrative or legal proceeding authorized in~~
 1000 ~~this part which involves the permittee is concluded, including~~
 1001 ~~any appeal, whichever occurs later. The out-of-state~~
 1002 prescription drug wholesale distributor must maintain at all
 1003 times a license or permit to engage in the wholesale
 1004 distribution of prescription drugs in compliance with laws of
 1005 the state in which it is a resident. If the state from which the
 1006 wholesale distributor distributes prescription drugs does not
 1007 require a license to engage in the wholesale distribution of
 1008 prescription drugs, the distributor must be licensed as a
 1009 wholesale distributor as required by the federal act.

1010 (g) (f) Retail pharmacy drug wholesale distributor permit.-
 1011 A retail pharmacy drug wholesale distributor is a retail
 1012 pharmacy engaged in wholesale distribution of prescription drugs
 1013 within this state under the following conditions:

- 1014 1. The pharmacy must obtain a retail pharmacy drug

1015 wholesale distributor permit pursuant to this part and ~~the~~ rules
 1016 adopted under this part.

1017 2. The wholesale distribution activity does not exceed 30
 1018 percent of the total annual purchases of prescription drugs. If
 1019 the wholesale distribution activity exceeds the 30-percent
 1020 maximum, the pharmacy must obtain a prescription drug wholesale
 1021 distributor permit.

1022 3. The transfer of prescription drugs that appear in any
 1023 schedule contained in chapter 893 is subject to chapter 893 and
 1024 the federal Comprehensive Drug Abuse Prevention and Control Act
 1025 of 1970.

1026 4. The transfer is between a retail pharmacy and another
 1027 retail pharmacy, or a Modified Class II institutional pharmacy,
 1028 or a health care practitioner licensed in this state and
 1029 authorized by law to dispense or prescribe prescription drugs.

1030 5. All records of sales of prescription drugs subject to
 1031 this section must be maintained separate and distinct from other
 1032 records and comply with the recordkeeping requirements of this
 1033 part.

1034 (h) ~~(g)~~ Restricted prescription drug distributor permit.—

1035 1. A restricted prescription drug distributor permit is
 1036 required for:

1037 a. Any person located in this state who engages in the
 1038 distribution of a prescription drug, which distribution is not
 1039 considered "wholesale distribution" under s. 499.003(48)(a)
 1040 ~~499.003(53)(a)~~.

1041 b. Any person located in this state who engages in the
 1042 receipt or distribution of a prescription drug in this state for
 1043 the purpose of processing its return or its destruction if such
 1044 person is not the person initiating the return, the prescription
 1045 drug wholesale supplier of the person initiating the return, or
 1046 the manufacturer of the drug.

1047 c. A blood establishment located in this state which
 1048 collects blood and blood components only from volunteer donors
 1049 as defined in s. 381.06014 or pursuant to an authorized
 1050 practitioner's order for medical treatment or therapy and
 1051 engages in the wholesale distribution of a prescription drug not
 1052 described in s. 499.003(48)(j) ~~499.003(53)(d)~~ to a health care
 1053 entity. A mobile blood unit operated by a blood establishment
 1054 permitted under this sub-subparagraph is not required to be
 1055 separately permitted. The health care entity receiving a
 1056 prescription drug distributed under this sub-subparagraph must
 1057 be licensed as a closed pharmacy or provide health care services
 1058 at that establishment. The blood establishment must operate in
 1059 accordance with s. 381.06014 and may distribute only:

1060 (I) Prescription drugs indicated for a bleeding or
 1061 clotting disorder or anemia;

1062 (II) Blood-collection containers approved under s. 505 of
 1063 the federal act;

1064 (III) Drugs that are blood derivatives, or a recombinant
 1065 or synthetic form of a blood derivative;

1066 (IV) Prescription drugs that are identified in rules

1067 adopted by the department and that are essential to services
 1068 performed or provided by blood establishments and authorized for
 1069 distribution by blood establishments under federal law; or

1070 (V) To the extent authorized by federal law, drugs
 1071 necessary to collect blood or blood components from volunteer
 1072 blood donors; for blood establishment personnel to perform
 1073 therapeutic procedures under the direction and supervision of a
 1074 licensed physician; and to diagnose, treat, manage, and prevent
 1075 any reaction of a volunteer blood donor or a patient undergoing
 1076 a therapeutic procedure performed under the direction and
 1077 supervision of a licensed physician,

1078
 1079 as long as all of the health care services provided by the blood
 1080 establishment are related to its activities as a registered
 1081 blood establishment or the health care services consist of
 1082 collecting, processing, storing, or administering human
 1083 hematopoietic stem cells or progenitor cells or performing
 1084 diagnostic testing of specimens if such specimens are tested
 1085 together with specimens undergoing routine donor testing. The
 1086 blood establishment may purchase and possess the drugs described
 1087 in this sub-subparagraph without a health care clinic
 1088 establishment permit.

1089 2. Storage, handling, and recordkeeping of these
 1090 distributions by a person required to be permitted as a
 1091 restricted prescription drug distributor must be in accordance
 1092 with the requirements for wholesale distributors under s.

1093 | ~~499.0121, but not those set forth in s. 499.01212 if the~~
 1094 | ~~distribution occurs pursuant to sub-subparagraph 1.a. or sub-~~
 1095 | ~~subparagraph 1.b.~~

1096 | 3. A person who applies for a permit as a restricted
 1097 | prescription drug distributor, or for the renewal of such a
 1098 | permit, must provide to the department the information required
 1099 | under s. 499.012.

1100 | 4. The department may adopt rules regarding the
 1101 | distribution of prescription drugs by hospitals, health care
 1102 | entities, charitable organizations, other persons not involved
 1103 | in wholesale distribution, and blood establishments, which rules
 1104 | are necessary for the protection of the public health, safety,
 1105 | and welfare.

1106 | (i)~~(h)~~ Complimentary drug distributor permit.—A
 1107 | complimentary drug distributor permit is required for any person
 1108 | that engages in the distribution of a complimentary drug,
 1109 | subject to the requirements of s. 499.028.

1110 | (j)~~(i)~~ Freight forwarder permit.—A freight forwarder
 1111 | permit is required for any person that engages in the
 1112 | distribution of a prescription drug as a freight forwarder
 1113 | unless the person is a common carrier. The storage, handling,
 1114 | and recordkeeping of such distributions must comply with the
 1115 | requirements for wholesale distributors under s. 499.0121, ~~but~~
 1116 | ~~not those set forth in s. 499.01212.~~ A freight forwarder must
 1117 | provide the source of the prescription drugs with a validated
 1118 | airway bill, bill of lading, or other appropriate documentation

1119 | to evidence the exportation of the product.

1120 | (k)~~(j)~~ Veterinary prescription drug retail establishment
 1121 | permit.—A veterinary prescription drug retail establishment
 1122 | permit is required for any person that sells veterinary
 1123 | prescription drugs to the public but does not include a pharmacy
 1124 | licensed under chapter 465.

1125 | 1. The sale to the public must be based on a valid written
 1126 | order from a veterinarian licensed in this state who has a valid
 1127 | client-veterinarian relationship with the purchaser's animal.

1128 | 2. Veterinary prescription drugs may not be sold in excess
 1129 | of the amount clearly indicated on the order or beyond the date
 1130 | indicated on the order.

1131 | 3. An order may not be valid for more than 1 year.

1132 | 4. A veterinary prescription drug retail establishment may
 1133 | not purchase, sell, trade, or possess human prescription drugs
 1134 | or any controlled substance as defined in chapter 893.

1135 | 5. A veterinary prescription drug retail establishment
 1136 | must sell a veterinary prescription drug in the original, sealed
 1137 | manufacturer's container with all labeling intact and legible.
 1138 | The department may adopt by rule additional labeling
 1139 | requirements for the sale of a veterinary prescription drug.

1140 | 6. A veterinary prescription drug retail establishment
 1141 | must comply with all of the wholesale distribution requirements
 1142 | of s. 499.0121.

1143 | 7. Prescription drugs sold by a veterinary prescription
 1144 | drug retail establishment pursuant to a practitioner's order may

1145 not be returned into the retail establishment's inventory.
 1146 (1)~~(k)~~ Veterinary prescription drug wholesale distributor
 1147 permit.—A veterinary prescription drug wholesale distributor
 1148 permit is required for any person that engages in the
 1149 distribution of veterinary prescription drugs in or into this
 1150 state. A veterinary prescription drug wholesale distributor that
 1151 also distributes prescription drugs subject to, defined by, or
 1152 described by s. 503(b) of the Federal Food, Drug, and Cosmetic
 1153 Act which it did not manufacture must obtain a permit as a
 1154 prescription drug wholesale distributor, an out-of-state
 1155 prescription drug wholesale distributor, or a limited
 1156 prescription drug veterinary wholesale distributor in lieu of
 1157 the veterinary prescription drug wholesale distributor permit. A
 1158 veterinary prescription drug wholesale distributor must comply
 1159 with the requirements for wholesale distributors under s.
 1160 499.0121, ~~but not those set forth in s. 499.01212.~~
 1161 (m)~~(l)~~ Limited prescription drug veterinary wholesale
 1162 distributor permit.—Unless engaging in the activities of and
 1163 permitted as a prescription drug manufacturer, nonresident
 1164 prescription drug manufacturer, prescription drug wholesale
 1165 distributor, or out-of-state prescription drug wholesale
 1166 distributor, a limited prescription drug veterinary wholesale
 1167 distributor permit is required for any person that engages in
 1168 the distribution in or into this state of veterinary
 1169 prescription drugs and prescription drugs subject to, defined
 1170 by, or described by s. 503(b) of the Federal Food, Drug, and

1171 Cosmetic Act under the following conditions:

1172 1. The person is engaged in the business of wholesaling

1173 prescription and veterinary prescription drugs to persons:

1174 a. Licensed as veterinarians practicing on a full-time

1175 basis;

1176 b. Regularly and lawfully engaged in instruction in

1177 veterinary medicine;

1178 c. Regularly and lawfully engaged in law enforcement

1179 activities;

1180 d. For use in research not involving clinical use; or

1181 e. For use in chemical analysis or physical testing or for

1182 purposes of instruction in law enforcement activities, research,

1183 or testing.

1184 2. No more than 30 percent of total annual prescription

1185 drug sales may be prescription drugs approved for human use

1186 which are subject to, defined by, or described by s. 503(b) of

1187 the Federal Food, Drug, and Cosmetic Act.

1188 3. The person does not distribute in any jurisdiction

1189 prescription drugs subject to, defined by, or described by s.

1190 503(b) of the Federal Food, Drug, and Cosmetic Act to any person

1191 who is authorized to sell, distribute, purchase, trade, or use

1192 these drugs on or for humans.

1193 4. A limited prescription drug veterinary wholesale

1194 distributor that applies to the department for a new permit or

1195 the renewal of a permit must submit a bond of \$20,000, or other

1196 equivalent means of security acceptable to the department, such

1197 as an irrevocable letter of credit or a deposit in a trust
 1198 account or financial institution, payable to the Professional
 1199 Regulation Trust Fund. The purpose of the bond is to secure
 1200 payment of any administrative penalties imposed by the
 1201 department and any fees and costs incurred by the department
 1202 regarding that permit which are authorized under state law and
 1203 which the permittee fails to pay 30 days after the fine or costs
 1204 become final. The department may make a claim against such bond
 1205 or security until 1 year after the permittee's license ceases to
 1206 be valid or until 60 days after any administrative or legal
 1207 proceeding authorized in this part which involves the permittee
 1208 is concluded, including any appeal, whichever occurs later.

1209 5. A limited prescription drug veterinary wholesale
 1210 distributor must maintain at all times a license or permit to
 1211 engage in the wholesale distribution of prescription drugs in
 1212 compliance with laws of the state in which it is a resident.

1213 6. A limited prescription drug veterinary wholesale
 1214 distributor must comply with the requirements for wholesale
 1215 distributors under s. ss. 499.0121 and 499.01212, ~~except that a~~
 1216 ~~limited prescription drug veterinary wholesale distributor is~~
 1217 ~~not required to provide a pedigree paper as required by s.~~
 1218 ~~499.01212 upon the wholesale distribution of a prescription drug~~
 1219 ~~to a veterinarian.~~

1220 7. A limited prescription drug veterinary wholesale
 1221 distributor may not return to inventory for subsequent wholesale
 1222 distribution any prescription drug subject to, defined by, or

1223 described by s. 503(b) of the Federal Food, Drug, and Cosmetic
 1224 Act which has been returned by a veterinarian.

1225 8. A limited prescription drug veterinary wholesale
 1226 distributor permit is not required for an intracompany sale or
 1227 transfer of a prescription drug from an out-of-state
 1228 establishment that is duly licensed to engage in the wholesale
 1229 distribution of prescription drugs in its state of residence to
 1230 a licensed limited prescription drug veterinary wholesale
 1231 distributor in this state if both wholesale distributors conduct
 1232 wholesale distributions of prescription drugs under the same
 1233 business name. The recordkeeping requirements of s. ~~ss.~~
 1234 499.0121(6) ~~and 499.01212~~ must be followed for this transaction.

1235 (n) ~~(m)~~ Over-the-counter drug manufacturer permit.—An over-
 1236 the-counter drug manufacturer permit is required for any person
 1237 that engages in the manufacture or repackaging of an over-the-
 1238 counter drug.

1239 1. An over-the-counter drug manufacturer may not possess
 1240 or purchase prescription drugs.

1241 2. A pharmacy is exempt from obtaining an over-the-counter
 1242 drug manufacturer permit if it is operating in compliance with
 1243 pharmacy practice standards as defined in chapter 465 and ~~the~~
 1244 rules adopted under that chapter.

1245 3. An over-the-counter drug manufacturer must comply with
 1246 all appropriate state and federal good manufacturing practices.

1247 (o) ~~(n)~~ Device manufacturer permit.—

1248 1. A device manufacturer permit is required for any person

1249 that engages in the manufacture, repackaging, or assembly of
 1250 medical devices for human use in this state, except that a
 1251 permit is not required if:

1252 a. The person is engaged only in manufacturing,
 1253 repackaging, or assembling a medical device pursuant to a
 1254 practitioner's order for a specific patient; or

1255 b. The person does not manufacture, repackage, or assemble
 1256 any medical devices or components for such devices, except those
 1257 devices or components which are exempt from registration
 1258 pursuant to s. 499.015(8).

1259 2. A manufacturer or repackager of medical devices in this
 1260 state must comply with all appropriate state and federal good
 1261 manufacturing practices and quality system rules.

1262 3. The department shall adopt rules related to storage,
 1263 handling, and recordkeeping requirements for manufacturers of
 1264 medical devices for human use.

1265 (p)~~(e)~~ Cosmetic manufacturer permit.—A cosmetic
 1266 manufacturer permit is required for any person that manufactures
 1267 or repackages cosmetics in this state. A person that only labels
 1268 or changes the labeling of a cosmetic but does not open the
 1269 container sealed by the manufacturer of the product is exempt
 1270 from obtaining a permit under this paragraph.

1271 (g)~~(e)~~ Third party logistics provider permit.—A third
 1272 party logistics provider permit is required for any person that
 1273 contracts with a prescription drug wholesale distributor or
 1274 prescription drug manufacturer to provide warehousing,

1275 distribution, or other logistics services on behalf of a
 1276 manufacturer, ~~or~~ wholesale distributor, or dispenser, but who
 1277 does not take title to the prescription drug or have
 1278 responsibility to direct the sale or disposition of the
 1279 prescription drug. A third party logistics provider located
 1280 outside of this state, must be licensed in the state or
 1281 territory from which the prescription drug is distributed by the
 1282 third party logistics provider. If the state or territory from
 1283 which the third party logistics provider originates does not
 1284 require a license to operate as a third party logistics
 1285 provider, the third party logistic provider must be licensed as
 1286 a third party logistics provider as required by the federal act.
 1287 Each third party logistics provider permittee shall comply with
 1288 s. the requirements for wholesale distributors under ss.
 1289 499.0121 and 499.01212, with the exception of those wholesale
 1290 distributions described in s. 499.01212(3)(a), and other rules
 1291 that the department requires.

1292 (r)(g) Health care clinic establishment permit. ~~Effective~~
 1293 ~~January 1, 2009,~~ A health care clinic establishment permit is
 1294 required for the purchase of a prescription drug by a place of
 1295 business at one general physical location that provides health
 1296 care or veterinary services, which is owned and operated by a
 1297 business entity that has been issued a federal employer tax
 1298 identification number. For the purpose of this paragraph, the
 1299 term "qualifying practitioner" means a licensed health care
 1300 practitioner defined in s. 456.001, or a veterinarian licensed

1301 | under chapter 474, who is authorized under the appropriate
 1302 | practice act to prescribe and administer a prescription drug.

1303 | 1. An establishment must provide, as part of the
 1304 | application required under s. 499.012, designation of a
 1305 | qualifying practitioner who will be responsible for complying
 1306 | with all legal and regulatory requirements related to the
 1307 | purchase, recordkeeping, storage, and handling of the
 1308 | prescription drugs. In addition, the designated qualifying
 1309 | practitioner shall be the practitioner whose name, establishment
 1310 | address, and license number is used on all distribution
 1311 | documents for prescription drugs purchased or returned by the
 1312 | health care clinic establishment. Upon initial appointment of a
 1313 | qualifying practitioner, the qualifying practitioner and the
 1314 | health care clinic establishment shall notify the department on
 1315 | a form furnished by the department within 10 days after such
 1316 | employment. In addition, the qualifying practitioner and health
 1317 | care clinic establishment shall notify the department within 10
 1318 | days after any subsequent change.

1319 | 2. The health care clinic establishment must employ a
 1320 | qualifying practitioner at each establishment.

1321 | 3. In addition to the remedies and penalties provided in
 1322 | this part, a violation of this chapter by the health care clinic
 1323 | establishment or qualifying practitioner constitutes grounds for
 1324 | discipline of the qualifying practitioner by the appropriate
 1325 | regulatory board.

1326 | 4. The purchase of prescription drugs by the health care

1327 clinic establishment is prohibited during any period of time
 1328 when the establishment does not comply with this paragraph.

1329 5. A health care clinic establishment permit is not a
 1330 pharmacy permit or otherwise subject to chapter 465. A health
 1331 care clinic establishment that meets the criteria of a modified
 1332 Class II institutional pharmacy under s. 465.019 is not eligible
 1333 to be permitted under this paragraph.

1334 6. This paragraph does not apply to the purchase of a
 1335 prescription drug by a licensed practitioner under his or her
 1336 license.

1337 (3) A nonresident prescription drug manufacturer permit is
 1338 not required for a manufacturer to distribute a prescription
 1339 drug active pharmaceutical ingredient that it manufactures to a
 1340 prescription drug manufacturer permitted in this state ~~in~~
 1341 ~~limited quantities~~ intended for research and development and not
 1342 for resale or human use other than lawful clinical trials and
 1343 biostudies authorized and regulated by federal law. A
 1344 manufacturer claiming to be exempt from the permit requirements
 1345 of this subsection and the prescription drug manufacturer
 1346 purchasing and receiving the active pharmaceutical ingredient
 1347 shall comply with the recordkeeping requirements of s.
 1348 499.0121(6), ~~but not the requirements of s. 499.01212.~~ The
 1349 prescription drug manufacturer purchasing and receiving the
 1350 active pharmaceutical ingredient shall maintain on file a record
 1351 of the FDA registration number; if available, the out-of-state
 1352 license, permit, or registration number; and, if available, a

1353 copy of the most current FDA inspection report, for all
 1354 manufacturers from whom they purchase active pharmaceutical
 1355 ingredients under this section. ~~The department shall define the~~
 1356 ~~term "limited quantities" by rule, and may include the allowable~~
 1357 ~~number of transactions within a given period of time and the~~
 1358 ~~amount of prescription drugs distributed into the state for~~
 1359 ~~purposes of this exemption.~~ The failure to comply with the
 1360 requirements of this subsection, or rules adopted by the
 1361 department to administer this subsection, for the purchase of
 1362 prescription drug active pharmaceutical ingredients is a
 1363 violation of s. 499.005(14), and a knowing failure is a
 1364 violation of s. 499.0051(4).

1365 (a) The immediate package or container of a prescription
 1366 drug active pharmaceutical ingredient distributed into the state
 1367 that is intended for research and development under this
 1368 subsection shall bear a label prominently displaying the
 1369 statement: "Caution: Research and Development Only-Not for
 1370 Manufacturing, Compounding, or Resale."

1371 (b) A prescription drug manufacturer that obtains a
 1372 prescription drug active pharmaceutical ingredient under this
 1373 subsection for use in clinical trials and or biostudies
 1374 authorized and regulated by federal law must create and maintain
 1375 records detailing the specific clinical trials or biostudies for
 1376 which the prescription drug active pharmaceutical ingredient was
 1377 obtained.

1378 (4)(a) A permit issued under this part is not required to

1379 distribute a prescription drug active pharmaceutical ingredient
 1380 from an establishment located in the United States to an
 1381 establishment located in this state permitted as a prescription
 1382 drug manufacturer under this part for use by the recipient in
 1383 preparing, deriving, processing, producing, or fabricating a
 1384 prescription drug finished dosage form at the establishment in
 1385 this state where the product is received under an approved and
 1386 otherwise valid New Drug Approval Application, Abbreviated New
 1387 Drug Application, New Animal Drug Application, or Therapeutic
 1388 Biologic Application, provided that the application, active
 1389 pharmaceutical ingredient, or finished dosage form has not been
 1390 withdrawn or removed from the market in this country for public
 1391 health reasons.

1392 1. Any distributor claiming exemption from permitting
 1393 requirements pursuant to this paragraph shall maintain a
 1394 license, permit, or registration to engage in the wholesale
 1395 distribution of prescription drugs under the laws of the state
 1396 from which the product is distributed. If the state from which
 1397 the prescription drugs are distributed does not require a
 1398 license to engage in the wholesale distribution of prescription
 1399 drugs, the distributor must be licensed as a wholesale
 1400 distributor as required by the federal act.

1401 2. Any distributor claiming exemption from permitting
 1402 requirements pursuant to this paragraph and the prescription
 1403 drug manufacturer purchasing and receiving the active
 1404 pharmaceutical ingredient shall comply with the recordkeeping

1405 requirements of s. 499.0121(6), ~~but not the requirements of s.~~
 1406 ~~499.01212.~~

1407 (b) A permit issued under this part is not required to
 1408 distribute ~~limited quantities of~~ a prescription drug that has
 1409 not been repackaged from an establishment located in the United
 1410 States to an establishment located in this state permitted as a
 1411 prescription drug manufacturer under this part for research and
 1412 development or to a holder of a letter of exemption issued by
 1413 the department under s. 499.03(4) for research, teaching, or
 1414 testing. ~~The department shall define "limited quantities" by~~
 1415 ~~rule and may include the allowable number of transactions within~~
 1416 ~~a given period of time and the amounts of prescription drugs~~
 1417 ~~distributed into the state for purposes of this exemption.~~

1418 1. Any distributor claiming exemption from permitting
 1419 requirements pursuant to this paragraph shall maintain a
 1420 license, permit, or registration to engage in the wholesale
 1421 distribution of prescription drugs under the laws of the state
 1422 from which the product is distributed. If the state from which
 1423 the prescription drugs are distributed does not require a
 1424 license to engage in the wholesale distribution of prescription
 1425 drugs, the distributor must be licensed as a wholesale
 1426 distributor as required by the federal act.

1427 2. All purchasers and recipients of any prescription drugs
 1428 distributed pursuant to this paragraph shall ensure that the
 1429 products are not resold or used, directly or indirectly, on
 1430 humans except in lawful clinical trials and biostudies

1431 authorized and regulated by federal law.

1432 3. Any distributor claiming exemption from permitting
 1433 requirements pursuant to this paragraph, and the purchaser and
 1434 recipient of the prescription drug, shall comply with the
 1435 recordkeeping requirements of s. 499.0121(6), ~~but not the~~
 1436 ~~requirements of s. 499.01212.~~

1437 4. The immediate package or container of any active
 1438 pharmaceutical ingredient distributed into the state that is
 1439 intended for teaching, testing, research, and development shall
 1440 bear a label prominently displaying the statement: "Caution:
 1441 Research, Teaching, or Testing Only - Not for Manufacturing,
 1442 Compounding, or Resale."

1443 (c) An out-of-state prescription drug wholesale
 1444 distributor permit is not required for an intracompany sale or
 1445 transfer of a prescription drug from an out-of-state
 1446 establishment that is duly licensed as a prescription drug
 1447 wholesale distributor in its state of residence to a licensed
 1448 prescription drug wholesale distributor in this state, if both
 1449 wholesale distributors conduct wholesale distributions of
 1450 prescription drugs under the same business name. The
 1451 recordkeeping requirements of s. 499.0121(6) ~~and 499.01212~~
 1452 must be followed for such transactions.

1453 (d) Persons receiving prescription drugs from a source
 1454 claimed to be exempt from permitting requirements under this
 1455 subsection shall maintain on file:

1456 1. A record of the FDA establishment registration number,

1457 | if any;

1458 | 2. The resident state or federal license, registration, or

1459 | permit that authorizes the source to distribute prescription

1460 | drugs ~~drug wholesale distribution license, permit, or~~

1461 | ~~registration number~~; and

1462 | 3. A copy of the most recent resident state or FDA

1463 | inspection report, for all distributors and establishments from

1464 | whom they purchase or receive prescription drugs under this

1465 | subsection.

1466 | (e) All persons claiming exemption from permitting

1467 | requirements pursuant to this subsection who engage in the

1468 | distribution of prescription drugs within or into the state are

1469 | subject to this part, including ss. 499.005 and 499.0051, and

1470 | shall make available, within 48 hours, to the department on

1471 | request all records related to any prescription drugs

1472 | distributed under this subsection, including those records

1473 | described in s. 499.051(4), regardless of the location where the

1474 | records are stored.

1475 | (f) A person purchasing and receiving a prescription drug

1476 | from a person claimed to be exempt from licensing requirements

1477 | pursuant to this subsection shall report to the department in

1478 | writing within 14 days after receiving any product that is

1479 | misbranded or adulterated or that fails to meet minimum

1480 | standards set forth in the official compendium or state or

1481 | federal good manufacturing practices for identity, purity,

1482 | potency, or sterility, regardless of whether the product is

1483 thereafter rehabilitated, quarantined, returned, or destroyed.

1484 (g) The department may adopt rules to administer this
 1485 subsection which are necessary for the protection of the public
 1486 health, safety, and welfare. Failure to comply with the
 1487 requirements of this subsection, or rules adopted by the
 1488 department to administer this subsection, is a violation of s.
 1489 499.005(14), and a knowing failure is a violation of s.
 1490 499.0051(4).

1491 (h) This subsection does not relieve any person from any
 1492 requirement prescribed by law with respect to controlled
 1493 substances as defined in the applicable federal and state laws.

1494 (5) A prescription drug repackager permit issued under
 1495 this part is not required for a restricted prescription drug
 1496 distributor permitholder that is a health care entity to
 1497 repackage prescription drugs in this state for its own use or
 1498 for distribution to hospitals or other health care entities in
 1499 the state for their own use, pursuant to s. 499.003(48)(a)3.
 1500 ~~499.003(53)(a)3.~~, if:

1501 (a) The prescription drug distributor notifies the
 1502 department, in writing, of its intention to engage in
 1503 repackaging under this exemption, 30 days before engaging in the
 1504 repackaging of prescription drugs at the permitted
 1505 establishment;

1506 (b) The prescription drug distributor is under common
 1507 control with the hospitals or other health care entities to
 1508 which the prescription drug distributor is distributing

1509 prescription drugs. As used in this paragraph, "common control"
 1510 means the power to direct or cause the direction of the
 1511 management and policies of a person or an organization, whether
 1512 by ownership of stock, voting rights, contract, or otherwise;

1513 (c) The prescription drug distributor repackages the
 1514 prescription drugs in accordance with current state and federal
 1515 good manufacturing practices; and

1516 (d) The prescription drug distributor labels the
 1517 prescription drug it repackages in accordance with state and
 1518 federal laws and rules.

1519
 1520 The prescription drug distributor is exempt from the product
 1521 registration requirements of s. 499.015 with regard to the
 1522 prescription drugs that it repackages and distributes under this
 1523 subsection. A prescription drug distributor that repackages and
 1524 distributes prescription drugs under this subsection to a not-
 1525 for-profit rural hospital, as defined in s. 395.602, is not
 1526 required to comply with paragraph (c) or paragraph (d), but must
 1527 provide to each health care entity for which it repackages, for
 1528 each prescription drug that is repackaged and distributed, the
 1529 information required by department rule for labeling
 1530 prescription drugs. The prescription drug distributor shall also
 1531 provide the additional current packaging and label information
 1532 for the prescription drug by hard copy or by electronic means.

1533 Section 6. Section 499.012, Florida Statutes, is amended
 1534 to read:

1535 499.012 Permit application requirements.—
 1536 (1)(a) A permit issued pursuant to this part may be issued
 1537 only to a natural person who is at least 18 years of age or to
 1538 an applicant that is not a natural person if each person who,
 1539 directly or indirectly, manages, controls, or oversees the
 1540 operation of that applicant is at least 18 years of age.
 1541 (b) An establishment that is a place of residence may not
 1542 receive a permit and may not operate under this part.
 1543 (c) A person that applies for or renews a permit to
 1544 manufacture or distribute prescription drugs may not use a name
 1545 identical to the name used by any other establishment or
 1546 licensed person authorized to purchase prescription drugs in
 1547 this state, except that a restricted drug distributor permit
 1548 issued to a health care entity will be issued in the name in
 1549 which the institutional pharmacy permit is issued and a retail
 1550 pharmacy drug wholesale distributor will be issued a permit in
 1551 the name of its retail pharmacy permit.
 1552 (d) A permit for a prescription drug manufacturer,
 1553 prescription drug repackager, prescription drug wholesale
 1554 distributor, limited prescription drug veterinary wholesale
 1555 distributor, or retail pharmacy drug wholesale distributor may
 1556 not be issued to the address of a health care entity or to a
 1557 pharmacy licensed under chapter 465, except as provided in this
 1558 paragraph. The department may issue a prescription drug
 1559 manufacturer permit to an applicant at the same address as a
 1560 licensed nuclear pharmacy, which is a health care entity, even

1561 | if the nuclear pharmacy holds a special sterile compounding
 1562 | permit under chapter 465, for the purpose of manufacturing
 1563 | prescription drugs used in positron emission tomography or other
 1564 | radiopharmaceuticals, as listed in a rule adopted by the
 1565 | department pursuant to this paragraph. The purpose of this
 1566 | exemption is to assure availability of state-of-the-art
 1567 | pharmaceuticals that would pose a significant danger to the
 1568 | public health if manufactured at a separate establishment
 1569 | address from the nuclear pharmacy from which the prescription
 1570 | drugs are dispensed. The department may also issue a retail
 1571 | pharmacy drug wholesale distributor permit to the address of a
 1572 | community pharmacy licensed under chapter 465, even if the
 1573 | community pharmacy holds a special sterile compounding permit
 1574 | under chapter 465, as long as the community pharmacy ~~which~~ does
 1575 | not meet the definition of a closed pharmacy in s. 499.003.

1576 | (e) A county or municipality may not issue an occupational
 1577 | license for ~~any licensing period beginning on or after October~~
 1578 | ~~1, 2003,~~ for any establishment that requires a permit pursuant
 1579 | to this part, unless the establishment exhibits a current permit
 1580 | issued by the department for the establishment. Upon
 1581 | presentation of the requisite permit issued by the department,
 1582 | an occupational license may be issued by the municipality or
 1583 | county in which application is made. The department shall
 1584 | furnish to local agencies responsible for issuing occupational
 1585 | licenses a current list of all establishments licensed pursuant
 1586 | to this part.

1587 (2) Notwithstanding subsection (6), a permitted person in
 1588 good standing may change the type of permit issued to that
 1589 person by completing a new application for the requested permit,
 1590 paying the amount of the difference in the permit fees if the
 1591 fee for the new permit is more than the fee for the original
 1592 permit, and meeting the applicable permitting conditions for the
 1593 new permit type. The new permit expires on the expiration date
 1594 of the original permit being changed; however, a new permit for
 1595 a prescription drug wholesale distributor, an out-of-state
 1596 prescription drug wholesale distributor, or a retail pharmacy
 1597 drug wholesale distributor shall expire on the expiration date
 1598 of the original permit or 1 year after the date of issuance of
 1599 the new permit, whichever is earlier. A refund may not be issued
 1600 if the fee for the new permit is less than the fee that was paid
 1601 for the original permit.

1602 (3) (a) A written application for a permit or to renew a
 1603 permit must be filed with the department on forms furnished by
 1604 the department. The department shall establish, by rule, the
 1605 form and content of the application to obtain or renew a permit.
 1606 The applicant must submit to the department with the application
 1607 a statement that swears or affirms that the information is true
 1608 and correct.

1609 (b) Upon a determination that 2 years have elapsed since
 1610 the department notified an applicant for permit, certification,
 1611 or product registration of a deficiency in the application and
 1612 that the applicant has failed to cure the deficiency, the

1613 application shall expire. The determination regarding the 2-year
 1614 lapse of time shall be based on documentation that the
 1615 department notified the applicant of the deficiency in
 1616 accordance with s. 120.60.

1617 (c) Information submitted by an applicant on an
 1618 application required pursuant to this subsection which is a
 1619 trade secret, as defined in s. 812.081, shall be maintained by
 1620 the department as trade secret information pursuant to s.
 1621 499.051(7).

1622 (4)(a) Except for a permit for a prescription drug
 1623 wholesale distributor or an out-of-state prescription drug
 1624 wholesale distributor, an application for a permit must include:

1625 1. The name, full business address, and telephone number
 1626 of the applicant;

1627 2. All trade or business names used by the applicant;

1628 3. The address, telephone numbers, and the names of
 1629 contact persons for each facility used by the applicant for the
 1630 storage, handling, and distribution of prescription drugs;

1631 4. The type of ownership or operation, such as a
 1632 partnership, corporation, or sole proprietorship; and

1633 5. The names of the owner and the operator of the
 1634 establishment, including:

1635 a. If an individual, the name of the individual;

1636 b. If a partnership, the name of each partner and the name
 1637 of the partnership;

1638 c. If a corporation, the name and title of each corporate

1639 officer and director, the corporate names, and the name of the
 1640 state of incorporation;

1641 d. If a sole proprietorship, the full name of the sole
 1642 proprietor and the name of the business entity;

1643 e. If a limited liability company, the name of each
 1644 member, the name of each manager, the name of the limited
 1645 liability company, and the name of the state in which the
 1646 limited liability company was organized; and

1647 f. Any other relevant information that the department
 1648 requires.

1649 (b) Upon approval of the application by the department and
 1650 payment of the required fee, the department shall issue a permit
 1651 to the applicant, if the applicant meets the requirements of
 1652 this part and rules adopted under this part.

1653 (c) Any change in information required under paragraph (a)
 1654 must be submitted to the department before the change occurs.

1655 (d) The department shall consider, at a minimum, the
 1656 following factors in reviewing the qualifications of persons to
 1657 be permitted under this part:

1658 1. The applicant's having been found guilty, regardless of
 1659 adjudication, in a court of this state or other jurisdiction, of
 1660 a violation of a law that directly relates to a drug, device, or
 1661 cosmetic. A plea of nolo contendere constitutes a finding of
 1662 guilt for purposes of this subparagraph.

1663 2. The applicant's having been disciplined by a regulatory
 1664 agency in any state for any offense that would constitute a

1665 violation of this part.

1666 3. Any felony conviction of the applicant under a federal,
1667 state, or local law;

1668 4. The applicant's past experience in manufacturing or
1669 distributing drugs, devices, or cosmetics;

1670 5. The furnishing by the applicant of false or fraudulent
1671 material in any application made in connection with
1672 manufacturing or distributing drugs, devices, or cosmetics;

1673 6. Suspension or revocation by a federal, state, or local
1674 government of any permit currently or previously held by the
1675 applicant for the manufacture or distribution of any drugs,
1676 devices, or cosmetics;

1677 7. Compliance with permitting requirements under any
1678 previously granted permits;

1679 8. Compliance with requirements to maintain or make
1680 available to the state permitting authority or to federal,
1681 state, or local law enforcement officials those records required
1682 under this section; and

1683 9. Any other factors or qualifications the department
1684 considers relevant to and consistent with the public health and
1685 safety.

1686 (5) ~~Except for a permit for a prescription drug wholesale~~
1687 ~~distributor or an out-of-state prescription drug wholesale~~
1688 ~~distributor.~~

1689 (a) The department shall adopt rules for the biennial
1690 renewal of permits; however, the department may issue up to a 4-

1691 year permit to selected permittees notwithstanding any other
 1692 provision of law. Fees for such renewal may not exceed the fee
 1693 caps set forth in s. 499.041 on an annualized basis as
 1694 authorized by law.

1695 (b) The department shall renew a permit upon receipt of
 1696 the renewal application and renewal fee if the applicant meets
 1697 the requirements established under this part and ~~the~~ rules
 1698 adopted under this part.

1699 (c) At least 90 days before the expiration date of a
 1700 permit, the department shall forward a permit renewal
 1701 notification to the permittee at the mailing address of the
 1702 permitted establishment on file with the department. The permit
 1703 renewal notification must state conspicuously the date on which
 1704 the permit for the establishment will expire and that the
 1705 establishment may not operate unless the permit for the
 1706 establishment is renewed timely. A permit, unless sooner
 1707 ~~suspended or revoked, automatically expires 2 years after the~~
 1708 ~~last day of the anniversary month in which the permit was~~
 1709 ~~originally issued.~~

1710 (d) A permit issued under this part may be renewed by
 1711 making application for renewal on forms furnished by the
 1712 department and paying the appropriate fees.

1713 1. If a prescription drug wholesale distributor or an out-
 1714 of-state prescription drug wholesale distributor renewal
 1715 application and fee are submitted and postmarked later than 45
 1716 days before the expiration date of the permit, the permit may be

1717 renewed only upon payment of a late renewal fee of \$100, plus
 1718 the required renewal fee.

1719 2. If any other a renewal application and fee are
 1720 submitted and postmarked after the expiration date of the
 1721 permit, the permit may be renewed only upon payment of a late
 1722 renewal delinquent fee of \$100, plus the required renewal fee,
 1723 not later than 60 days after the expiration date.

1724 3. A permittee who submits a renewal application in
 1725 accordance with this paragraph may continue to operate under its
 1726 permit, unless the permit is suspended or revoked, until final
 1727 disposition of the renewal application.

1728 4.~~(d)~~ Failure to renew a permit in accordance with this
 1729 section precludes any future renewal of that permit. If a permit
 1730 issued pursuant to this part has expired and cannot be renewed,
 1731 before an establishment may engage in activities that require a
 1732 permit under this part, the establishment must submit an
 1733 application for a new permit, pay the applicable application
 1734 fee, the initial permit fee, and all applicable penalties, and
 1735 be issued a new permit by the department.

1736 (6) A permit issued by the department is nontransferable.
 1737 Each permit is valid only for the person or governmental unit to
 1738 which it is issued and is not subject to sale, assignment, or
 1739 other transfer, voluntarily or involuntarily; nor is a permit
 1740 valid for any establishment other than the establishment for
 1741 which it was originally issued.

1742 (a) A person permitted under this part must notify the

1743 department before making a change of address. The department
 1744 shall set a change of location fee not to exceed \$100.

1745 (b)1. An application for a new permit is required when a
 1746 majority of the ownership or controlling interest of a permitted
 1747 establishment is transferred or assigned or when a lessee agrees
 1748 to undertake or provide services to the extent that legal
 1749 liability for operation of the establishment will rest with the
 1750 lessee. The application for the new permit must be made before
 1751 the date of the sale, transfer, assignment, or lease.

1752 2. A permittee that is authorized to distribute
 1753 prescription drugs may transfer such drugs to the new owner or
 1754 lessee under subparagraph 1. only after the new owner or lessee
 1755 has been approved for a permit to distribute prescription drugs.

1756 (c) If an establishment permitted under this part closes,
 1757 the owner must notify the department in writing before the
 1758 effective date of closure and must:

1759 1. Return the permit to the department;

1760 2. If the permittee is authorized to distribute
 1761 prescription drugs, indicate the disposition of such drugs,
 1762 including the name, address, and inventory, and provide the name
 1763 and address of a person to contact regarding access to records
 1764 that are required to be maintained under this part. Transfer of
 1765 ownership of prescription drugs may be made only to persons
 1766 authorized to possess prescription drugs under this part.

1767
 1768 The department may revoke the permit of any person that fails to

1769 | comply with the requirements of this subsection.
 1770 | (7) A permit must be posted in a conspicuous place on the
 1771 | licensed premises.
 1772 | (8) An application for a permit or to renew a permit for a
 1773 | prescription drug wholesale distributor or an out-of-state
 1774 | prescription drug wholesale distributor submitted to the
 1775 | department must include:
 1776 | (a) The name, full business address, and telephone number
 1777 | of the applicant.
 1778 | (b) All trade or business names used by the applicant.
 1779 | (c) The address, telephone numbers, and the names of
 1780 | contact persons for each facility used by the applicant for the
 1781 | storage, handling, and distribution of prescription drugs.
 1782 | (d) The type of ownership or operation, such as a
 1783 | partnership, corporation, or sole proprietorship.
 1784 | (e) The names of the owner and the operator of the
 1785 | establishment, including:
 1786 | 1. If an individual, the name of the individual.
 1787 | 2. If a partnership, the name of each partner and the name
 1788 | of the partnership.
 1789 | 3. If a corporation:
 1790 | a. The name, address, and title of each corporate officer
 1791 | and director.
 1792 | b. The name and address of the corporation, resident agent
 1793 | of the corporation, the resident agent's address, and the
 1794 | corporation's state of incorporation.

1795 c. The name and address of each shareholder of the
 1796 corporation that owns 5 percent or more of the outstanding stock
 1797 of the corporation.

1798 4. If a sole proprietorship, the full name of the sole
 1799 proprietor and the name of the business entity.

1800 5. If a limited liability company:

1801 a. The name and address of each member.

1802 b. The name and address of each manager.

1803 c. The name and address of the limited liability company,
 1804 the resident agent of the limited liability company, and the
 1805 name of the state in which the limited liability company was
 1806 organized.

1807 (f) If applicable, the name and address of each affiliate
 1808 ~~of member of the affiliated group of which the applicant is a~~
 1809 ~~member.~~

1810 (g)~~1.~~ The applicant's gross annual receipts attributable
 1811 to prescription drug wholesale distribution activities for the
 1812 previous tax year. ~~For an application for a new permit, the~~
 1813 ~~estimated annual dollar volume of prescription drug sales of the~~
 1814 ~~applicant, the estimated annual percentage of the applicant's~~
 1815 ~~total company sales that are prescription drugs, the applicant's~~
 1816 ~~estimated annual total dollar volume of purchases of~~
 1817 ~~prescription drugs, and the applicant's estimated annual total~~
 1818 ~~dollar volume of prescription drug purchases directly from~~
 1819 ~~manufacturers.~~

1820 2. ~~For an application to renew a permit, the total dollar~~

1821 ~~volume of prescription drug sales in the previous year, the~~
 1822 ~~total dollar volume of prescription drug sales made in the~~
 1823 ~~previous 6 months, the percentage of total company sales that~~
 1824 ~~were prescription drugs in the previous year, the total dollar~~
 1825 ~~volume of purchases of prescription drugs in the previous year,~~
 1826 ~~and the total dollar volume of prescription drug purchases~~
 1827 ~~directly from manufacturers in the previous year.~~

1828
 1829 ~~Such portions of the information required pursuant to this~~
 1830 ~~paragraph which are a trade secret, as defined in s. 812.081,~~
 1831 ~~shall be maintained by the department as trade secret~~
 1832 ~~information is required to be maintained under s. 499.051.~~

1833 (h) The tax year of the applicant.

1834 (i) A copy of the deed for the property on which
 1835 applicant's establishment is located, if the establishment is
 1836 owned by the applicant, or a copy of the applicant's lease for
 1837 the property on which applicant's establishment is located that
 1838 has an original term of not less than 1 calendar year, if the
 1839 establishment is not owned by the applicant.

1840 (j) A list of all licenses and permits issued to the
 1841 applicant by any other state which authorize the applicant to
 1842 purchase or possess prescription drugs.

1843 (k) The name of the manager of the establishment that is
 1844 applying for the permit or to renew the permit, the next four
 1845 highest ranking employees responsible for prescription drug
 1846 wholesale operations for the establishment, and the name of all

1847 affiliated parties for the establishment, together with the
 1848 personal information statement and fingerprints required
 1849 pursuant to subsection (9) for each of such persons.

1850 (l) The name of each of the applicant's designated
 1851 representatives as required by subsection (15) ~~(16)~~, together
 1852 with the personal information statement and fingerprints
 1853 required pursuant to subsection (9) for each such person.

1854 (m) Evidence of a surety bond in this state or any other
 1855 state in the United States in the amount of \$100,000. If the
 1856 annual gross receipts of the applicant's previous tax year is
 1857 \$10 million or less, evidence of a surety bond in the amount of
 1858 \$25,000. The specific language of the surety bond must include
 1859 the State of Florida as a beneficiary, payable to the
 1860 Professional Regulation Trust Fund. In lieu of the surety bond,
 1861 the applicant may provide other equivalent security, such as an
 1862 irrevocable letter of credit or a deposit in a trust account or
 1863 financial institution, that includes the State of Florida as a
 1864 beneficiary, payable to the Professional Regulation Trust Fund.
 1865 The purpose of the bond or other security is to secure payment
 1866 of any administrative penalties imposed by the department and
 1867 any fees and costs incurred by the department regarding that
 1868 permit which are authorized under state law and which the
 1869 permittee fails to pay 30 days after the fine or costs become
 1870 final. The department may make a claim against such bond or
 1871 security until 1 year after the permittee's license ceases to be
 1872 valid or until 60 days after any administrative or legal

1873 proceeding authorized in this part which involves the permittee
 1874 is concluded, including any appeal, whichever occurs later. ~~For~~
 1875 ~~an applicant that is a secondary wholesale distributor, each of~~
 1876 ~~the following:~~

1877 ~~1. A personal background information statement containing~~
 1878 ~~the background information and fingerprints required pursuant to~~
 1879 ~~subsection (9) for each person named in the applicant's response~~
 1880 ~~to paragraphs (k) and (l) and for each affiliated party of the~~
 1881 ~~applicant.~~

1882 ~~2. If any of the five largest shareholders of the~~
 1883 ~~corporation seeking the permit is a corporation, the name,~~
 1884 ~~address, and title of each corporate officer and director of~~
 1885 ~~each such corporation; the name and address of such corporation;~~
 1886 ~~the name of such corporation's resident agent, such~~
 1887 ~~corporation's resident agent's address, and such corporation's~~
 1888 ~~state of its incorporation; and the name and address of each~~
 1889 ~~shareholder of such corporation that owns 5 percent or more of~~
 1890 ~~the stock of such corporation.~~

1891 ~~3. The name and address of all financial institutions in~~
 1892 ~~which the applicant has an account which is used to pay for the~~
 1893 ~~operation of the establishment or to pay for drugs purchased for~~
 1894 ~~the establishment, together with the names of all persons that~~
 1895 ~~are authorized signatories on such accounts. The portions of the~~
 1896 ~~information required pursuant to this subparagraph which are a~~
 1897 ~~trade secret, as defined in s. 812.081, shall be maintained by~~
 1898 ~~the department as trade secret information is required to be~~

1899 | ~~maintained under s. 499.051.~~

1900 | ~~4. The sources of all funds and the amounts of such funds~~
 1901 | ~~used to purchase or finance purchases of prescription drugs or~~
 1902 | ~~to finance the premises on which the establishment is to be~~
 1903 | ~~located.~~

1904 | ~~5. If any of the funds identified in subparagraph 4. were~~
 1905 | ~~borrowed, copies of all promissory notes or loans used to obtain~~
 1906 | ~~such funds.~~

1907 | (n) For establishments used in wholesale distribution,
 1908 | proof of an inspection conducted by the department, the United
 1909 | States Food and Drug Administration, or another governmental
 1910 | entity charged with the regulation of good manufacturing
 1911 | practices related to wholesale distribution of prescription
 1912 | drugs, within timeframes set forth by the department in
 1913 | departmental rules, which demonstrates substantial compliance
 1914 | with current good manufacturing practices applicable to
 1915 | wholesale distribution of prescription drugs. The department may
 1916 | recognize another state's inspection of a wholesale distributor
 1917 | located in that state if such state's laws are deemed to be
 1918 | substantially equivalent to the law of this state by the
 1919 | department. The department may accept an inspection by a third-
 1920 | party accreditation or inspection service which meets the
 1921 | criteria set forth in department rule.

1922 | ~~(o)(n) Any other relevant information that the department~~
 1923 | ~~requires, including, but not limited to, any information related~~
 1924 | ~~to whether the applicant satisfies the definition of a primary~~

1925 ~~wholesale distributor or a secondary wholesale distributor.~~

1926 (p) ~~(e)~~ Documentation of the credentialing policies and
 1927 procedures required by s. 499.0121(15).

1928 (9) (a) Each person required by subsection (8) or
 1929 subsection (15) to provide a personal information statement and
 1930 fingerprints shall provide the following information to the
 1931 department on forms prescribed by the department:

1932 1. The person's places of residence for the past 7 years.

1933 2. The person's date and place of birth.

1934 3. The person's occupations, positions of employment, and
 1935 offices held during the past 7 years.

1936 4. The principal business and address of any business,
 1937 corporation, or other organization in which each such office of
 1938 the person was held or in which each such occupation or position
 1939 of employment was carried on.

1940 5. Whether the person has been, during the past 7 years,
 1941 the subject of any proceeding for the revocation of any license
 1942 and, if so, the nature of the proceeding and the disposition of
 1943 the proceeding.

1944 6. Whether, during the past 7 years, the person has been
 1945 enjoined, temporarily or permanently, by a court of competent
 1946 jurisdiction from violating any federal or state law regulating
 1947 the possession, control, or distribution of prescription drugs,
 1948 together with details concerning any such event.

1949 7. A description of any involvement by the person with any
 1950 business, including any investments, other than the ownership of

1951 stock in a publicly traded company or mutual fund, during the
 1952 past 4 7 years, which manufactured, administered, prescribed,
 1953 distributed, or stored pharmaceutical products and any lawsuits
 1954 in which such businesses were named as a party.

1955 8. A description of any felony criminal offense of which
 1956 the person, as an adult, was found guilty, regardless of whether
 1957 adjudication of guilt was withheld or whether the person pled
 1958 guilty or nolo contendere. A criminal offense committed in
 1959 another jurisdiction which would have been a felony in this
 1960 state must be reported. If the person indicates that a criminal
 1961 conviction is under appeal and submits a copy of the notice of
 1962 appeal of that criminal offense, the applicant must, within 15
 1963 days after the disposition of the appeal, submit to the
 1964 department a copy of the final written order of disposition.

1965 9. A photograph of the person taken in the previous 180 ~~30~~
 1966 days.

1967 10. A set of fingerprints for the person on a form and
 1968 under procedures specified by the department, together with
 1969 payment of an amount equal to the costs incurred by the
 1970 department for the criminal record check of the person.

1971 11. The name, address, occupation, and date and place of
 1972 birth for each member of the person's immediate family who is 18
 1973 years of age or older. As used in this subparagraph, the term
 1974 "member of the person's immediate family" includes the person's
 1975 spouse, children, parents, siblings, the spouses of the person's
 1976 children, and the spouses of the person's siblings.

1977 12. Any other relevant information that the department
1978 requires.

1979 (b) The information required pursuant to paragraph (a)
1980 shall be provided under oath.

1981 (c) The department shall submit the fingerprints provided
1982 by a person for initial licensure to the Department of Law
1983 Enforcement for a statewide criminal record check and for
1984 forwarding to the Federal Bureau of Investigation for a national
1985 criminal record check of the person. The department shall submit
1986 the fingerprints provided by a person as a part of a renewal
1987 application to the Department of Law Enforcement for a statewide
1988 criminal record check, and for forwarding to the Federal Bureau
1989 of Investigation for a national criminal record check, for the
1990 initial renewal of a permit after January 1, 2004; for any
1991 subsequent renewal of a permit, the department shall submit the
1992 required information for a statewide and national criminal
1993 record check of the person. Any person who as a part of an
1994 initial permit application or initial permit renewal after
1995 January 1, 2004, submits to the department a set of fingerprints
1996 required for the criminal record check required in this
1997 paragraph are ~~shall~~ not be required to provide a subsequent set
1998 of fingerprints for a criminal record check to the department,
1999 if the person has undergone a criminal record check as a
2000 condition of the issuance of an initial permit or the initial
2001 renewal of a permit of an applicant after January 1, 2004. The
2002 department is authorized to contract with private vendors, or

2003 enter into interagency agreements, to collect electronic
 2004 fingerprints where fingerprints are required for registration,
 2005 certification, or the licensure process or where criminal
 2006 history record checks are required.

2007 (d) For purposes of applying for renewal of a permit under
 2008 subsection (8) or certification under subsection (16), a person
 2009 may submit the following in lieu of satisfying the requirements
 2010 of paragraphs (a), (b), and (c):

2011 1. A photograph of the individual taken within 180 days;
 2012 and

2013 2. A copy of the personal information statement form most
 2014 recently submitted to the department and a certification under
 2015 oath, on a form specified by the department, that the individual
 2016 has reviewed the previously submitted personal information
 2017 statement form and that the information contained therein
 2018 remains unchanged.

2019 (10) The department may deny an application for a permit
 2020 or refuse to renew a permit for a prescription drug wholesale
 2021 distributor or an out-of-state prescription drug wholesale
 2022 distributor if:

2023 (a) The applicant has not met the requirements for the
 2024 permit.

2025 (b) The management, officers, or directors of the
 2026 applicant or any affiliated party are found by the department to
 2027 be incompetent or untrustworthy.

2028 (c) The applicant is so lacking in experience in managing

2029 a wholesale distributor as to make the issuance of the proposed
 2030 permit hazardous to the public health.

2031 (d) The applicant is so lacking in experience in managing
 2032 a wholesale distributor as to jeopardize the reasonable promise
 2033 of successful operation of the wholesale distributor.

2034 (e) The applicant is lacking in experience in the
 2035 distribution of prescription drugs.

2036 (f) The applicant's past experience in manufacturing or
 2037 distributing prescription drugs indicates that the applicant
 2038 poses a public health risk.

2039 (g) The applicant is affiliated directly or indirectly
 2040 through ownership, control, or other business relations, with
 2041 any person or persons whose business operations are or have been
 2042 detrimental to the public health.

2043 (h) The applicant, or any affiliated party, has been found
 2044 guilty of or has pleaded guilty or nolo contendere to any felony
 2045 or crime punishable by imprisonment for 1 year or more under the
 2046 laws of the United States, any state, or any other country,
 2047 regardless of whether adjudication of guilt was withheld.

2048 (i) The applicant or any affiliated party has been charged
 2049 with a felony in a state or federal court and the disposition of
 2050 that charge is pending during the application review or renewal
 2051 review period.

2052 (j) The applicant has furnished false or fraudulent
 2053 information or material in any application made in this state or
 2054 any other state in connection with obtaining a permit or license

2055 | to manufacture or distribute drugs, devices, or cosmetics.

2056 | (k) That a federal, state, or local government permit
 2057 | currently or previously held by the applicant, or any affiliated
 2058 | party, for the manufacture or distribution of any drugs,
 2059 | devices, or cosmetics has been disciplined, suspended, or
 2060 | revoked and has not been reinstated.

2061 | (l) The applicant does not possess the financial or
 2062 | physical resources to operate in compliance with the permit
 2063 | being sought, this chapter, and the rules adopted under this
 2064 | chapter.

2065 | (m) The applicant or any affiliated party receives,
 2066 | directly or indirectly, financial support and assistance from a
 2067 | person who was an affiliated party of a permittee whose permit
 2068 | was subject to discipline or was suspended or revoked, other
 2069 | than through the ownership of stock in a publicly traded company
 2070 | or a mutual fund.

2071 | (n) The applicant or any affiliated party receives,
 2072 | directly or indirectly, financial support and assistance from a
 2073 | person who has been found guilty of any violation of this part
 2074 | or chapter 465, chapter 501, or chapter 893, any rules adopted
 2075 | under this part or those chapters, any federal or state drug
 2076 | law, or any felony where the underlying facts related to drugs,
 2077 | regardless of whether the person has been pardoned, had her or
 2078 | his civil rights restored, or had adjudication withheld, other
 2079 | than through the ownership of stock in a publicly traded company
 2080 | or a mutual fund.

2081 (o) The applicant for renewal of a permit under s.
 2082 499.01(2)(e) or (f) ~~499.01(2)(d) or (e)~~ has not actively engaged
 2083 in the wholesale distribution of prescription drugs, as
 2084 demonstrated by the regular and systematic distribution of
 2085 prescription drugs throughout the year as evidenced by not fewer
 2086 than 12 wholesale distributions in the previous year and not
 2087 fewer than three wholesale distributions in the previous 6
 2088 months.

2089 (p) Information obtained in response to s. 499.01(2)(e) or
 2090 (f) ~~499.01(2)(d) or (e)~~ demonstrates it would not be in the best
 2091 interest of the public health, safety, and welfare to issue a
 2092 permit.

2093 (q) The applicant does not possess the financial standing
 2094 and business experience for the successful operation of the
 2095 applicant.

2096 (r) The applicant or any affiliated party has failed to
 2097 comply with the requirements for manufacturing or distributing
 2098 prescription drugs under this part, similar federal laws,
 2099 similar laws in other states, or the rules adopted under such
 2100 laws.

2101 (11) Upon approval of the application by the department
 2102 and payment of the required fee, the department shall issue or
 2103 renew a prescription drug wholesale distributor or an out-of-
 2104 state prescription drug wholesale distributor permit to the
 2105 applicant.

2106 ~~(12) For a permit for a prescription drug wholesale~~

2107 ~~distributor or an out-of-state prescription drug wholesale~~
 2108 ~~distributor.~~

2109 ~~(a) The department shall adopt rules for the annual~~
 2110 ~~renewal of permits. At least 90 days before the expiration of a~~
 2111 ~~permit, the department shall forward a permit renewal~~
 2112 ~~notification and renewal application to the prescription drug~~
 2113 ~~wholesale distributor or out-of-state prescription drug~~
 2114 ~~wholesale distributor at the mailing address of the permitted~~
 2115 ~~establishment on file with the department. The permit renewal~~
 2116 ~~notification must state conspicuously the date on which the~~
 2117 ~~permit for the establishment will expire and that the~~
 2118 ~~establishment may not operate unless the permit for the~~
 2119 ~~establishment is renewed timely.~~

2120 ~~(b) A permit, unless sooner suspended or revoked,~~
 2121 ~~automatically expires 1 year after the last day of the~~
 2122 ~~anniversary month in which the permit was originally issued. A~~
 2123 ~~permit may be renewed by making application for renewal on forms~~
 2124 ~~furnished by the department and paying the appropriate fees. If~~
 2125 ~~a renewal application and fee are submitted and postmarked after~~
 2126 ~~45 days prior to the expiration date of the permit, the permit~~
 2127 ~~may be renewed only upon payment of a late renewal fee of \$100,~~
 2128 ~~plus the required renewal fee. A permittee that has submitted a~~
 2129 ~~renewal application in accordance with this paragraph may~~
 2130 ~~continue to operate under its permit, unless the permit is~~
 2131 ~~suspended or revoked, until final disposition of the renewal~~
 2132 ~~application.~~

2133 ~~(c) Failure to renew a permit in accordance with this~~
 2134 ~~section precludes any future renewal of that permit. If a permit~~
 2135 ~~issued pursuant to this section has expired and cannot be~~
 2136 ~~renewed, before an establishment may engage in activities that~~
 2137 ~~require a permit under this part, the establishment must submit~~
 2138 ~~an application for a new permit, pay the applicable application~~
 2139 ~~fee, initial permit fee, and all applicable penalties, and be~~
 2140 ~~issued a new permit by the department.~~

2141 (12)~~(13)~~ A person that engages in wholesale distribution
 2142 of prescription drugs in this state must have a wholesale
 2143 distributor's permit issued by the department, except as noted
 2144 in this section. Each establishment must be separately permitted
 2145 except as noted in this subsection.

2146 (a) A separate establishment permit is not required when a
 2147 permitted prescription drug wholesale distributor consigns a
 2148 prescription drug to a pharmacy that is permitted under chapter
 2149 465 and located in this state, provided that:

2150 1. The consignor wholesale distributor notifies the
 2151 department in writing of the contract to consign prescription
 2152 drugs to a pharmacy along with the identity and location of each
 2153 consignee pharmacy;

2154 2. The pharmacy maintains its permit under chapter 465;

2155 3. The consignor wholesale distributor, which has no legal
 2156 authority to dispense prescription drugs, complies with all
 2157 wholesale distribution requirements of s. ss. 499.0121 and
 2158 ~~499.01212~~ with respect to the consigned drugs and maintains

2159 records documenting the transfer of title or other completion of
 2160 the wholesale distribution of the consigned prescription drugs;

2161 4. The distribution of the prescription drug is otherwise
 2162 lawful under this chapter and other applicable law;

2163 5. Open packages containing prescription drugs within a
 2164 pharmacy are the responsibility of the pharmacy, regardless of
 2165 how the drugs are titled; and

2166 6. The pharmacy dispenses the consigned prescription drug
 2167 in accordance with the limitations of its permit under chapter
 2168 465 or returns the consigned prescription drug to the consignor
 2169 wholesale distributor. In addition, a person who holds title to
 2170 prescription drugs may transfer the drugs to a person permitted
 2171 or licensed to handle the reverse distribution or destruction of
 2172 drugs. Any other distribution by and means of the consigned
 2173 prescription drug by any person, not limited to the consignor
 2174 wholesale distributor or consignee pharmacy, to any other person
 2175 is prohibited.

2176 (b) A wholesale distributor's permit is not required for
 2177 the one-time transfer of title of a pharmacy's lawfully acquired
 2178 prescription drug inventory by a pharmacy with a valid permit
 2179 issued under chapter 465 to a consignor prescription drug
 2180 wholesale distributor, permitted under this chapter, in
 2181 accordance with a written consignment agreement between the
 2182 pharmacy and that wholesale distributor if the permitted
 2183 pharmacy and the permitted prescription drug wholesale
 2184 distributor comply with all of the provisions of paragraph (a)

2185 and the prescription drugs continue to be within the permitted
 2186 pharmacy's inventory for dispensing in accordance with the
 2187 limitations of the pharmacy permit under chapter 465. A
 2188 consignor drug wholesale distributor may not use the pharmacy as
 2189 a wholesale distributor through which it distributes the
 2190 prescription drugs to other pharmacies. Nothing in this section
 2191 is intended to prevent a wholesale distributor from obtaining
 2192 this inventory in the event of nonpayment by the pharmacy.

2193 (c) A separate establishment permit is not required when a
 2194 permitted prescription drug wholesale distributor operates
 2195 temporary transit storage facilities for the sole purpose of
 2196 storage, for up to 16 hours, of a delivery of prescription drugs
 2197 when the wholesale distributor was temporarily unable to
 2198 complete the delivery to the recipient.

2199 (d) The department shall require information from each
 2200 wholesale distributor as part of the permit and renewal of such
 2201 permit, as required under this section.

2202 (13)~~(14)~~ Personnel employed in wholesale distribution must
 2203 have appropriate education and experience to enable them to
 2204 perform their duties in compliance with state permitting
 2205 requirements.

2206 (14)~~(15)~~ The name of a permittee or establishment on a
 2207 prescription drug wholesale distributor permit or an out-of-
 2208 state prescription drug wholesale distributor permit may not
 2209 include any indicia of attainment of any educational degree, any
 2210 indicia that the permittee or establishment possesses a

2211 professional license, or any name or abbreviation that the
 2212 department determines is likely to cause confusion or mistake or
 2213 that the department determines is deceptive, including that of
 2214 any other entity authorized to purchase prescription drugs.

2215 (15)~~(16)~~ (a) Each establishment that is issued an initial
 2216 or renewal permit as a prescription drug wholesale distributor
 2217 or an out-of-state prescription drug wholesale distributor must
 2218 designate in writing to the department at least one natural
 2219 person to serve as the designated representative of the
 2220 wholesale distributor. Such person must have an active
 2221 certification as a designated representative from the
 2222 department.

2223 (b) To be certified as a designated representative, a
 2224 natural person must:

- 2225 1. Submit an application on a form furnished by the
 2226 department and pay the appropriate fees.
- 2227 2. Be at least 18 years of age.
- 2228 3. Have at least 2 years of verifiable full-time:
 - 2229 a. Work experience in a pharmacy licensed in this state or
 2230 another state, where the person's responsibilities included, but
 2231 were not limited to, recordkeeping for prescription drugs;
 - 2232 b. Managerial experience with a prescription drug
 2233 wholesale distributor licensed in this state or in another
 2234 state; or
 - 2235 c. Managerial experience with the United States Armed
 2236 Forces, where the person's responsibilities included, but were

2237 not limited to, recordkeeping, warehousing, distributing, or
 2238 other logistics services pertaining to prescription drugs.

2239 4. Receive a passing score of at least 75 percent on an
 2240 examination given by the department regarding federal laws
 2241 governing distribution of prescription drugs and this part and
 2242 the rules adopted by the department governing the wholesale
 2243 distribution of prescription drugs. This requirement shall be
 2244 effective 1 year after the results of the initial examination
 2245 are mailed to the persons that took the examination. The
 2246 department shall offer such examinations at least four times
 2247 each calendar year.

2248 5. Provide the department with a personal information
 2249 statement and fingerprints pursuant to subsection (9).

2250 (c) The department may deny an application for
 2251 certification as a designated representative or may suspend or
 2252 revoke a certification of a designated representative pursuant
 2253 to s. 499.067.

2254 (d) A designated representative:

2255 1. Must be actively involved in and aware of the actual
 2256 daily operation of the wholesale distributor.

2257 2. Must be employed full time in a managerial position by
 2258 the wholesale distributor.

2259 3. Must be physically present at the establishment during
 2260 normal business hours, except for time periods when absent due
 2261 to illness, family illness or death, scheduled vacation, or
 2262 other authorized absence.

2263 4. May serve as a designated representative for only one
 2264 wholesale distributor at any one time.

2265 (e) A wholesale distributor must notify the department
 2266 when a designated representative leaves the employ of the
 2267 wholesale distributor. Such notice must be provided to the
 2268 department within 10 business days after the last day of
 2269 designated representative's employment with the wholesale
 2270 distributor.

2271 (f) A wholesale distributor may not operate under a
 2272 prescription drug wholesale distributor permit or an out-of-
 2273 state prescription drug wholesale distributor permit for more
 2274 than 10 business days after the designated representative leaves
 2275 the employ of the wholesale distributor, unless the wholesale
 2276 distributor employs another designated representative and
 2277 notifies the department within 10 business days of the identity
 2278 of the new designated representative.

2279 Section 7. Section 499.01201, Florida Statutes, is amended
 2280 to read:

2281 499.01201 Agency for Health Care Administration review and
 2282 use of statute and rule violation or compliance data.-

2283 Notwithstanding any other provision ~~provisions~~ of law ~~to the~~
 2284 ~~contrary~~, the Agency for Health Care Administration may not:

2285 (1) Review or use any violation or alleged violation of s.
 2286 499.0121(6) ~~or s. 499.01212~~, or any rules adopted under that
 2287 section ~~those sections~~, as a ground for denying or withholding
 2288 any payment of a Medicaid reimbursement to a pharmacy licensed

2289 | under chapter 465; or

2290 | (2) Review or use compliance with s. 499.0121(6) ~~or s.~~
 2291 | ~~499.01212~~, or any rules adopted under that section ~~these~~
 2292 | ~~sections~~, as the subject of any audit of Medicaid-related
 2293 | records held by a pharmacy licensed under chapter 465.

2294 | Section 8. Paragraph (d) of subsection (4), subsection
 2295 | (6), and paragraph (b) of subsection (15) of section 499.0121,
 2296 | Florida Statutes, are amended to read:

2297 | 499.0121 Storage and handling of prescription drugs;
 2298 | recordkeeping.—The department shall adopt rules to implement
 2299 | this section as necessary to protect the public health, safety,
 2300 | and welfare. Such rules shall include, but not be limited to,
 2301 | requirements for the storage and handling of prescription drugs
 2302 | and for the establishment and maintenance of prescription drug
 2303 | distribution records.

2304 | (4) EXAMINATION OF MATERIALS AND RECORDS.—

2305 | (d) Upon receipt, a wholesale distributor must review
 2306 | records required under this section for the acquisition of
 2307 | prescription drugs for accuracy and completeness, considering
 2308 | the total facts and circumstances surrounding the transactions
 2309 | and the wholesale distributors involved. ~~This includes~~
 2310 | ~~authenticating each transaction listed on a pedigree paper, as~~
 2311 | ~~defined in s. 499.003(37).~~

2312 | (6) RECORDKEEPING.—The department shall adopt rules that
 2313 | require keeping such records of prescription drugs, including
 2314 | active pharmaceutical ingredients, as are necessary for the

2315 protection of the public health.

2316 (a) ~~Wholesale~~ Distributors of prescription drugs and

2317 active pharmaceutical ingredients must establish and maintain

2318 inventories and records of all transactions regarding the

2319 receipt and distribution or other disposition of prescription

2320 drugs and active pharmaceutical ingredients. These records must

2321 provide a complete audit trail from receipt to sale or other

2322 disposition, be readily retrievable for inspection, and include,

2323 at a minimum, the following information:

2324 1. The source of the prescription drugs or active

2325 pharmaceutical ingredients, including the name and principal

2326 address of the seller or transferor, and the address of the

2327 location from which the prescription drugs were shipped;

2328 2. The name, principal address, and state license permit

2329 or registration number of the person authorized to purchase

2330 prescription drugs or active pharmaceutical ingredients;

2331 3. The name, strength, dosage form, and quantity of the

2332 prescription drugs received and distributed or disposed of;

2333 4. The dates of receipt and distribution or other

2334 disposition of the prescription drugs or active pharmaceutical

2335 ingredients; and

2336 5. Any financial documentation supporting the transaction.

2337 (b) Inventories and records must be made available for

2338 inspection and photocopying by authorized federal, state, or

2339 local officials for a period of 2 years following disposition of

2340 the drugs or 3 years after the creation of the records,

2341 whichever period is longer.

2342 (c) Records described in this section that are kept at the
 2343 inspection site or that can be immediately retrieved by computer
 2344 or other electronic means must be readily available for
 2345 authorized inspection during the retention period. Records that
 2346 are kept at a central location outside of this state and that
 2347 are not electronically retrievable must be made available for
 2348 inspection within 2 working days after a request by an
 2349 authorized official of a federal, state, or local law
 2350 enforcement agency. Records that are maintained at a central
 2351 location within this state must be maintained at an
 2352 establishment that is permitted pursuant to this part and must
 2353 be readily available.

2354 (d) Each manufacturer or repackager of medical devices,
 2355 over-the-counter drugs, or cosmetics must maintain records that
 2356 include the name and principal address of the seller or
 2357 transferor of the product, the address of the location from
 2358 which the product was shipped, the date of the transaction, the
 2359 name and quantity of the product involved, and the name and
 2360 principal address of the person who purchased the product.

2361 ~~(e) When pedigree papers are required by this part, a~~
 2362 ~~wholesale distributor must maintain the pedigree papers separate~~
 2363 ~~and distinct from other records required under this part.~~

2364 (15) DUE DILIGENCE OF PURCHASERS.—

2365 (b) A wholesale distributor must take reasonable measures
 2366 to identify its customers, understand the normal and expected

2367 transactions conducted by those customers, and identify those
 2368 transactions that are suspicious in nature. A wholesale
 2369 distributor must establish internal policies and procedures for
 2370 identifying suspicious orders and preventing suspicious
 2371 transactions. A wholesale distributor must assess orders for
 2372 greater than 7,500 ~~5,000~~ unit doses of any one controlled
 2373 substance in any one month to determine whether the purchase is
 2374 reasonable. In making such assessments, a wholesale distributor
 2375 may consider the purchasing entity's clinical business needs,
 2376 location, and population served, in addition to other factors
 2377 established in the distributor's policies and procedures. A
 2378 wholesale distributor must report to the department any
 2379 regulated transaction involving an extraordinary quantity of a
 2380 listed chemical, an uncommon method of payment or delivery, or
 2381 any other circumstance that the regulated person believes may
 2382 indicate that the listed chemical will be used in violation of
 2383 the law. The wholesale distributor shall maintain records that
 2384 document the report submitted to the department in compliance
 2385 with this paragraph.

2386 Section 9. Subsection (4) of section 499.015, Florida
 2387 Statutes, is amended to read:

2388 499.015 Registration of drugs, devices, and cosmetics;
 2389 issuance of certificates of free sale.-

2390 (4) Unless a registration is renewed, it expires 2 years
 2391 after the last day of the month in which it was issued. Any
 2392 product registration issued or renewed on or after July 1, 2016,

2393 shall expire on the same date as the manufacturer or repackager
 2394 permit of the person seeking to register the product. If the
 2395 first product registration issued to a person on or after July
 2396 1, 2016, expires less than 366 days after issuance, the fee for
 2397 product registration shall be \$15. If the first product
 2398 registration issued to a person on or after July 1, 2016,
 2399 expires more than 365 days after issuance, the fee for product
 2400 registration shall be \$30. The department may issue a stop-sale
 2401 notice or order against a person that is subject to the
 2402 requirements of this section and that fails to comply with this
 2403 section within 31 days after the date the registration expires.
 2404 The notice or order shall prohibit such person from selling or
 2405 causing to be sold any drugs, devices, or cosmetics covered by
 2406 this part until he or she complies with the requirements of this
 2407 section.

2408 Section 10. Subsection (1) of section 499.03, Florida
 2409 Statutes, is amended to read:

2410 499.03 Possession of certain drugs without prescriptions
 2411 unlawful; exemptions and exceptions.-

2412 (1) A person may not possess, or possess with intent to
 2413 sell, dispense, or deliver, any habit-forming, toxic, harmful,
 2414 or new drug subject to s. 499.003(32) ~~499.003(33)~~, or
 2415 prescription drug as defined in s. 499.003(40) ~~499.003(43)~~,
 2416 unless the possession of the drug has been obtained by a valid
 2417 prescription of a practitioner licensed by law to prescribe the
 2418 drug. However, this section does not apply to the delivery of

2419 such drugs to persons included in any of the classes named in
 2420 this subsection, or to the agents or employees of such persons,
 2421 for use in the usual course of their businesses or practices or
 2422 in the performance of their official duties, as the case may be;
 2423 nor does this section apply to the possession of such drugs by
 2424 those persons or their agents or employees for such use:

2425 (a) A licensed pharmacist or any person under the licensed
 2426 pharmacist's supervision while acting within the scope of the
 2427 licensed pharmacist's practice;

2428 (b) A licensed practitioner authorized by law to prescribe
 2429 prescription drugs or any person under the licensed
 2430 practitioner's supervision while acting within the scope of the
 2431 licensed practitioner's practice;

2432 (c) A qualified person who uses prescription drugs for
 2433 lawful research, teaching, or testing, and not for resale;

2434 (d) A licensed hospital or other institution that procures
 2435 such drugs for lawful administration or dispensing by
 2436 practitioners;

2437 (e) An officer or employee of a federal, state, or local
 2438 government; or

2439 (f) A person that holds a valid permit issued by the
 2440 department pursuant to this part which authorizes that person to
 2441 possess prescription drugs.

2442 Section 11. Paragraphs (i) through (p) of subsection (1)
 2443 of section 499.05, Florida Statutes, are amended to read:

2444 499.05 Rules.—

2445 (1) The department shall adopt rules to implement and
 2446 enforce this chapter with respect to:

2447 (i) Additional conditions that qualify as an emergency
 2448 medical reason under s. 499.003(48)(b)2. ~~499.003(53)(b)2.~~ or s.
 2449 499.82.

2450 ~~(j) Procedures and forms relating to the pedigree paper~~
 2451 ~~requirement of s. 499.01212.~~

2452 (j)~~(k)~~ The protection of the public health, safety, and
 2453 welfare regarding good manufacturing practices that
 2454 manufacturers and repackagers must follow to ensure the safety
 2455 of the products.

2456 (k)~~(l)~~ Information required from each retail establishment
 2457 pursuant to s. 499.012(3) or s. 499.83(2)(c), including
 2458 requirements for prescriptions or orders.

2459 (l)~~(m)~~ The recordkeeping, storage, and handling with
 2460 respect to each of the distributions of prescription drugs
 2461 specified in s. 499.003(48)(a)-(v) ~~499.003(53)(a)-(d)~~ or s.
 2462 499.82(14).

2463 ~~(n) Alternatives to compliance with s. 499.01212 for a~~
 2464 ~~prescription drug in the inventory of a permitted prescription~~
 2465 ~~drug wholesale distributor as of June 30, 2006, and the return~~
 2466 ~~of a prescription drug purchased prior to July 1, 2006. The~~
 2467 ~~department may specify time limits for such alternatives.~~

2468 (m)~~(o)~~ Wholesale distributor reporting requirements of s.
 2469 499.0121(14).

2470 (n)~~(p)~~ Wholesale distributor credentialing and

2471 distribution requirements of s. 499.0121(15).

2472 Section 12. Subsection (7) of section 499.051, Florida
 2473 Statutes, is amended to read:

2474 499.051 Inspections and investigations.—

2475 (7) The complaint and all information obtained pursuant to
 2476 the investigation by the department are confidential and exempt
 2477 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 2478 until the investigation and the enforcement action are
 2479 completed. However, trade secret information contained therein
 2480 as defined by s. 812.081(1)(c) shall remain confidential and
 2481 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 2482 of the State Constitution, as long as the information is
 2483 retained by the department. This subsection does not prohibit
 2484 the department from using such information for regulatory or
 2485 enforcement proceedings under this chapter or from providing
 2486 such information to any law enforcement agency or any other
 2487 regulatory agency. However, the receiving agency shall keep such
 2488 records confidential and exempt as provided in this subsection.
 2489 ~~In addition, this subsection is not intended to prevent~~
 2490 ~~compliance with the provisions of s. 499.01212, and the pedigree~~
 2491 ~~papers required in that section shall not be deemed a trade~~
 2492 ~~secret.~~

2493 Section 13. Subsection (8) is added to section 499.066,
 2494 Florida Statutes, to read:

2495 499.066 Penalties; remedies.—In addition to other
 2496 penalties and other enforcement provisions:

2497 (8) (a) The department shall adopt rules to permit the
 2498 issuance of remedial, nondisciplinary citations. A citation
 2499 shall be issued to the person alleged to have committed a
 2500 violation and contain the person's name, address, and license
 2501 number, if applicable, a brief factual statement, the sections
 2502 of the law allegedly violated, and the monetary assessment and
 2503 or other remedial measures imposed. The citation must clearly
 2504 state that the person may choose, in lieu of accepting the
 2505 citation, to have the department rescind the citation and
 2506 conduct an investigation pursuant to s. 499.051. If the person
 2507 does not dispute the matter in the citation with the department
 2508 within 30 days after the citation is served, the citation
 2509 becomes a final order and does not constitute discipline.

2510 (b) The department shall adopt rules designating
 2511 violations for which a citation may be issued. The rules shall
 2512 designate as citable those violations for which there is no
 2513 substantial threat to the public health, safety, or welfare.

2514 (c) The department is entitled to recover the costs of
 2515 investigation, in addition to any penalty provided according to
 2516 department rule, as part of the penalty levied pursuant to the
 2517 citation.

2518 (d) A citation must be issued within 12 months after the
 2519 filing of the complaint that is the basis for the citation.

2520 (e) Service of a citation may be made by personal service
 2521 or certified mail, restricted delivery, to the person at the
 2522 person's last known address of record with the department or to

2523 the person's Florida registered agent.

2524 (f) The department has authority to, and shall adopt rules
 2525 to, designate those violations for which a person is subject to
 2526 the issuance of a citation and designate the monetary
 2527 assessments and or other remedial measures that must be taken
 2528 for those violations. The department has continuous authority to
 2529 amend its rules adopted pursuant to this section.

2530 Section 14. Subsection (14) of section 499.82, Florida
 2531 Statutes, is amended to read:

2532 499.82 Definitions.—As used in this part, the term:

2533 (14) "Wholesale distribution" means the distribution of
 2534 medical gas to a person other than a consumer or patient.

2535 Wholesale distribution of medical gases does not include:

2536 (a) The sale, purchase, or trade of a medical gas; an
 2537 offer to sell, purchase, or trade a medical gas; or the
 2538 dispensing of a medical gas pursuant to a prescription;

2539 (b) Activities exempt from the definition of wholesale
 2540 distribution in s. 499.003; or

2541 (c) The sale, purchase, or trade of a medical gas or an
 2542 offer to sell, purchase, or trade a medical gas for emergency
 2543 medical reasons, ~~or~~

2544 ~~(d) Other transactions excluded from the definition of~~
 2545 ~~wholesale distribution under the federal act or regulations~~
 2546 ~~implemented under the federal act related to medical gas.~~

2547 Section 15. Subsection (4) of section 499.89, Florida
 2548 Statutes, is amended to read:

2549 499.89 Recordkeeping.—

2550 ~~(4) A pedigree paper is not required for distributing or~~
 2551 ~~dispensing medical gas.~~

2552 Section 16. Section 499.01212, Florida Statutes, is
 2553 repealed.

2554 Section 17. Paragraph (a) of subsection (1) of section
 2555 409.9201, Florida Statutes, is amended to read:

2556 409.9201 Medicaid fraud.—

2557 (1) As used in this section, the term:

2558 (a) "Prescription drug" means any drug, including, but not
 2559 limited to, finished dosage forms or active ingredients that are
 2560 subject to, defined in, or described in s. 503(b) of the Federal
 2561 Food, Drug, and Cosmetic Act or in s. 465.003(8), s. 499.003(47)
 2562 ~~499.003(52)~~, s. 499.007(13), or s. 499.82(10).

2563

2564 The value of individual items of the legend drugs or goods or
 2565 services involved in distinct transactions committed during a
 2566 single scheme or course of conduct, whether involving a single
 2567 person or several persons, may be aggregated when determining
 2568 the punishment for the offense.

2569 Section 18. Paragraph (b) of subsection (1) of section
 2570 499.067, Florida Statutes, is amended to read:

2571 499.067 Denial, suspension, or revocation of permit,
 2572 certification, or registration.—

2573 (1)

2574 (b) The department may deny an application for a permit or

2575 certification, or suspend or revoke a permit or certification,
 2576 if the department finds that:

2577 1. The applicant is not of good moral character or that it
 2578 would be a danger or not in the best interest of the public
 2579 health, safety, and welfare if the applicant were issued a
 2580 permit or certification.

2581 2. The applicant has not met the requirements for the
 2582 permit or certification.

2583 3. The applicant is not eligible for a permit or
 2584 certification for any of the reasons enumerated in s. 499.012.

2585 4. The applicant, permittee, or person certified under s.
 2586 499.012(15) ~~499.012(16)~~ demonstrates any of the conditions
 2587 enumerated in s. 499.012.

2588 5. The applicant, permittee, or person certified under s.
 2589 499.012(15) ~~499.012(16)~~ has committed any violation of this
 2590 chapter.

2591 Section 19. Subsection (1) of section 794.075, Florida
 2592 Statutes, is amended to read:

2593 794.075 Sexual predators; erectile dysfunction drugs.—

2594 (1) A person may not possess a prescription drug, as
 2595 defined in s. 499.003 ~~499.003(43)~~, for the purpose of treating
 2596 erectile dysfunction if the person is designated as a sexual
 2597 predator under s. 775.21.

2598 Section 20. Paragraphs (d), (f), (i), and (j) of
 2599 subsection (3) of section 921.0022, Florida Statutes, are
 2600 amended to read:

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2601 | 921.0022 Criminal Punishment Code; offense severity
 2602 | ranking chart.-

2603 | (3) OFFENSE SEVERITY RANKING CHART

2604 | (d) LEVEL 4

2605 |

Florida	Felony	
Statute	Degree	Description

2606 |

316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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2607 |

499.0051(1)	3rd	Failure to maintain or deliver <u>transaction history,</u> <u>transaction information, or</u> <u>transaction statements</u> pedigree papers.
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2608 |

499.0051(2)	3rd	Failure to authenticate pedigree papers.
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2609 |

<u>499.0051(5)</u>	2nd	Knowing sale or delivery, or possession with intent to sell,
499.0051(6)		

			contraband prescription drugs.
2610	517.07(1)	3rd	Failure to register securities.
2611	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
2612	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
2613	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
2614	784.075	3rd	Battery on detention or commitment facility staff.
2615	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
2616	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
2617	784.081(3)	3rd	Battery on specified official or employee.

2618	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
2619	784.083(3)	3rd	Battery on code inspector.
2620	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
2621	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
2622	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
2623	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
2624			

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2625	787.07	3rd	Human smuggling.
2626	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
2627	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
2628	790.115(2)(c)	3rd	Possessing firearm on school property.
2629	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
2630	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
2631	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

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2632	810.06	3rd	Burglary; possession of tools.
2633	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
2634	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
2635	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
2636	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
2637	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
2638	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
	817.625(2)(a)	3rd	Fraudulent use of scanning

			device or reencoder.
2639	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
2640	837.02(1)	3rd	Perjury in official proceedings.
2641	837.021(1)	3rd	Make contradictory statements in official proceedings.
2642	838.022	3rd	Official misconduct.
2643	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
2644	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
2645	843.021	3rd	Possession of a concealed handcuff key by a person in custody.

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2646	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
2647	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
2648	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
2649	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
2650	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
2651	914.14(2)	3rd	Witnesses accepting bribes.
2652	914.22(1)	3rd	Force, threaten, etc., witness,

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

2653			victim, or informant.
	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
2654			
	918.12	3rd	Tampering with jurors.
2655			
	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
2656			
2657	(f)	LEVEL 6	
2658			
	Florida Statute	Felony Degree	Description
2659			
	316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
2660			
	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
2661			
	400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure,

			without a license.
2662	<u>499.0051(2)</u> 499.0051(3)	2nd	Knowing forgery of <u>transaction history, transaction information, or transaction statement</u> pedigree papers .
2663	<u>499.0051(3)</u> 499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
2664	<u>499.0051(4)</u> 499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
2665	775.0875(1)	3rd	Taking firearm from law enforcement officer.
2666	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
2667	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
2668	784.041	3rd	Felony battery; domestic battery by strangulation.

2669	784.048(3)	3rd	Aggravated stalking; credible threat.
2670	784.048(5)	3rd	Aggravated stalking of person under 16.
2671	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
2672	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
2673	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
2674	784.081(2)	2nd	Aggravated assault on specified official or employee.
2675	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
2676	784.083(2)	2nd	Aggravated assault on code inspector.

2677	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
2678	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
2679	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
2680	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
2681	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
2682	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
2683			

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2684	794.05(1)	2nd	Unlawful sexual activity with specified minor.
2685	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
2686	800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
2687	806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
2688	810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
2689	810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

2690	812.014(6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
2691	812.015(9)(a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
2692	812.015(9)(b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
2693	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
2694	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
2695	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
2696	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
2697			

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2698	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
2699	825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
2700	827.03(2)(c)	3rd	Abuse of a child.
2701	827.03(2)(d)	3rd	Neglect of a child.
2702	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
2703	836.05	2nd	Threats; extortion.
2704	836.10	2nd	Written threats to kill or do bodily injury.
2705	843.12	3rd	Aids or assists person to escape.
	847.011	3rd	Distributing, offering to distribute, or possessing with

			intent to distribute obscene materials depicting minors.
2706	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
2707	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
2708	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
2709	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
2710	944.40	2nd	Escapes.
2711	944.46	3rd	Harboring, concealing, aiding escaped prisoners.

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2712	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
2713	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
2714			
2715	(i) LEVEL 9		
2716			
	Florida Statute	Felony Degree	Description
2717	316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
2718	327.35 (3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
2719	409.920 (2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
2720	<u>499.0051(8)</u> 499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.

2721

560.123(8)(b)3. 1st Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.

2722

560.125(5)(c) 1st Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.

2723

655.50(10)(b)3. 1st Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.

2724

775.0844 1st Aggravated white collar crime.

2725

782.04(1) 1st Attempt, conspire, or solicit to commit premeditated murder.

2726

782.04(3) 1st,PBL Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or

			death, and other specified felonies.
2727	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
2728	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
2729	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
2730	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
2731	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
2732	787.02(3)(a)	1st,PBL	False imprisonment; child under

age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.

2733

787.06(3)(c)1. 1st Human trafficking for labor and services of an unauthorized alien child.

2734

787.06(3)(d) 1st Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.

2735

787.06(3)(f)1. 1st,PBL Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to within the state.

2736

790.161 1st Attempted capital destructive device offense.

2737

790.166(2) 1st,PBL Possessing, selling, using, or

			attempting to use a weapon of mass destruction.
2738	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
2739	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
2740	794.011(4)(a)	1st, PBL	Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older.
2741	794.011(4)(b)	1st	Sexual battery, certain circumstances; victim and offender 18 years of age or older.
2742	794.011(4)(c)	1st	Sexual battery, certain circumstances; victim 12 years of age or older; offender

			younger than 18 years.
2743	794.011(4)(d)	1st,PBL	Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.
2744	794.011(8)(b)	1st,PBL	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
2745	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
2746	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
2747	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
2748	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.

2749	812.135(2)(b)	1st	Home-invasion robbery with weapon.
2750	817.535(3)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
2751	817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
2752	817.535(5)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
2753	817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal

			guardian, or person exercising custodial authority.
2754	827.03(2)(a)	1st	Aggravated child abuse.
2755	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
2756	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
2757	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
2758	893.135	1st	Attempted capital trafficking offense.
2759	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.

2760	893.135 (1) (b) 1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
2761	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
2762	893.135 (1) (c) 2.d.	1st	Trafficking in hydrocodone, 200 grams or more, less than 30 kilograms.
2763	893.135 (1) (c) 3.d.	1st	Trafficking in oxycodone, 100 grams or more, less than 30 kilograms.
2764	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
2765	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
2766	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams.
2767			

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

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2768	893.135 (1) (h) 1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
2769	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
2770	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
2771	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
2772	896.104 (4) (a) 3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.
2773	(j) LEVEL 10		
2774	Florida	Felony	
2775	Statute	Degree	Description
	<u>499.0051 (9)</u>	1st	Knowing sale or purchase of

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

2776	499.0051(10)		contraband prescription drugs resulting in death.
2777	782.04(2)	1st, PBL	Unlawful killing of human; act is homicide, unpremeditated.
2778	782.07(3)	1st	Aggravated manslaughter of a child.
2779	787.01(1)(a)3.	1st, PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
2780	787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
2781	787.06(3)(g)	Life	Human trafficking for commercial sexual activity of a child under the age of 18 or mentally defective or incapacitated person.
	787.06(4)(a)	Life	Selling or buying of minors

into human trafficking.

2782

794.011(3) Life Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.

2783

812.135(2) (a) 1st, PBL Home-invasion robbery with firearm or other deadly weapon.

2784

876.32 1st Treason against the state.

2785

2786 Section 21. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1219 Veterans' Employment
SPONSOR(S): Raburn
TIED BILLS: IDEN./SIM. BILLS: SB 1538

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Veteran & Military Affairs Subcommittee	12 Y, 0 N, As CS	Thompson	Thompson
2) Government Operations Appropriations Subcommittee		White <i>CCW</i>	Topp <i>BDT</i>
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law requires the state and its political subdivisions to grant a preference in hiring to all veterans, Guard members, U.S. Reserve Forces, Gold Star Mothers, Fathers, and legal guardians, and authorizes private sector employers to establish a veterans' preference process for honorably discharged veterans and certain spouses. However, Florida law does not provide a policy concerning the recruitment and employment of veterans by state agencies. In addition, Florida law does not provide a policy regarding the tracking of statistical data concerning these practices.

The bill revises the section of Florida law governing veterans' preference in appointment and retention.

Specifically, the bill:

- Requires each state agency, and allows each political subdivision of the state, to develop and implement a written veterans' recruitment plan;
- Requires each veterans' recruitment plan to establish and meet annual goals for ensuring the full use of veterans in the agency's or subdivision's workforce;
- Requires the Department of Management Services (DMS) to collect statistical data for each state agency on the number of persons who claim veterans' preference, the number of persons who were hired through veterans' preference, and the number of persons who were hired as a result of the veterans' recruitment plan; and
- Requires DMS to annually update the statistical data on its website and include the statistics in its annual workforce report.

The bill requires each veterans' recruitment plan to apply to the same veterans and veterans' family members that are addressed in the Florida law governing veterans preference in appointment and retention.

The fiscal impact to the state and each political subdivision of the state is indeterminate but likely insignificant. The effects of the bill will likely have a positive fiscal impact on veterans and their family members.

The effective date of the bill is October 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Military and Veteran Presence in Florida

Current law defines a “veteran” as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later received an upgraded discharge under honorable conditions.¹ Currently, there are 21.8 million veterans in the United States, of which, over 1.6 million reside in Florida.² This makes Florida the state with the third largest veteran population, behind only California and Texas.³ Approximately 299,000 of Florida’s veterans are service-disabled.⁴

Florida’s overall unemployment rate for calendar year 2014 was 6.3 percent.⁵ The unemployment rate among Florida veterans was 5.0 percent compared to 5.3 percent nationally.⁶ The unemployment rate among Florida Post-9/11 era veterans averaged 4.8 percent compared to 7.2 percent nationally.⁷

Veterans’ Preference in Employment

The Florida statutes have included some form of veterans’ employment preference since 1947.⁸ The purpose of the veterans’ preference statute is to reward those who served their country in a time of need and to recognize the qualities and traits developed by military service.⁹ In 2014, the Legislature:

- Expanded Florida’s veterans’ preference in public employment process to increase the field of persons eligible for veterans’ preference to include all veterans, Guard members, U.S. Reserve Forces, and Gold Star Mothers, Fathers, and legal guardians; and
- Authorized private sector employers to establish a veterans’ preference process for honorably discharged veterans and certain spouses.¹⁰

The law specifically requires all state government entities, counties, cities, towns, villages, special tax school districts, and special districts (government employers) to grant employment preference in hiring and retention to certain veterans, and family members of certain military servicemembers and veterans.¹¹ All advertisements and written job announcements must include notice that veterans and

¹ s. 1.01(14), F.S.

² U.S. Census Bureau, *A Snapshot of Our Nation’s Veterans*, available at: <http://www.census.gov/library/infographics/veterans.html> (last viewed January 20, 2016).

³ Florida Department of Veterans’ Affairs, *Fast Facts*, available at: http://floridavets.org/?page_id=50 (last viewed January 20, 2016).

⁴ U.S. Department of Veterans Affairs, Veterans Benefits Administration, Annual Benefits Report, Fiscal Year 2014, page 22 of 80, available at: <http://www.benefits.va.gov/REPORTS/abr/ABR-IntroAppendix-FY13-09262014.pdf> (Last visited January 18, 2016).

⁵ See Florida Department of Economic Opportunity, *Local Area Unemployment Statistics*, available at: <http://www.floridajobs.org/labor-market-information/data-center/statistical-programs/local-area-unemployment-statistics> (last visited January 20, 2016).

⁶ United States Congress Joint Economic Committee, *Economic Snapshot: Florida* (Oct. 2015), available at: http://www.jec.senate.gov/public/_cache/files/2cb3bde9-27db-4584-86fc-f2ce46e4bb2e/florida.pdf (last visited January 20, 2016).

⁷ Id.

⁸ s. 1, ch. 24201, L.O.F. (1947).

⁹ *Yates v. Rezeau*, 62 So.2d 726, 727 (Fla. 1952); Ch. 98-33, at 244, L.O.F.

¹⁰ CS/CS/HB 7015 was approved by the Governor on March 31, 2014, ch. 2014-1, L.O.F., became effective on July 1, 2014, except as otherwise provided.

¹¹ Section 295.07(1), F.S., requires the state and political subdivisions of the state to comply with veterans’ preference requirements. Section 1.01, F.S., defines “political subdivision” as “counties, cities, towns, villages, special tax school districts, special road and bridge districts, and all other districts in the state. Rule 55A-7.004, F.A.C., contains a definition applicable specifically to veterans’

eligible family members receive preference in employment and are encouraged to apply for the position.¹²

Florida's veterans' preference in employment statutes does not require a government employer to hire a veteran over a more qualified non-veteran.¹³ In addition, a potential government employer is not required to pass a person who is eligible for veterans' preference through the screening process if he or she does not meet the minimum qualifications for the position.¹⁴

In addition, beginning in 2014, private employers in Florida were authorized to provide veterans' preference requirements.¹⁵

1. *Persons Eligible for Employment Preference and Exceptions*

Pursuant to Florida law, the following persons are eligible to claim veterans' employment preference:¹⁶

- a) Disabled Veterans who have served on active duty in any branch of the Armed Forces and who presently have an existing service-connected disability which is compensable under public laws administered by the DVA or are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the DVA and the Department of Defense.
- b) The spouse of a Veteran:
 - a. who has a total and permanent service-connected disability and who, because of this disability, cannot qualify for employment; or
 - b. Who is missing in action, captured in line of duty by a hostile force, or detained or interned in line of duty by a foreign government or power.
- c) A Veteran of any war, who has served at least one day during that war time period as defined in s. 1.01 (14), F.S., or who has been awarded a campaign or expeditionary medal. (Active duty for training shall not be allowed for eligibility under this provision.)
- d) The unremarried widow or widower of a Veteran who died of a serviceconnected disability.
- e) The mother, father, legal guardian, or unremarried widow or widower of a service member who died as a result of military service under combat-related conditions as verified by the U.S. Department of Defense.
- f) A Veteran as defined in s. 1.01(14), F.S., "Active Duty for Training" may not be allowed under this paragraph. The term "veteran" is defined as a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions.
- g) A current member of any reserve component of the U.S. Armed Forces or the Florida National Guard.

Florida law exempts the following government positions from the veterans' preference requirements:¹⁷

- Positions that are exempt from the state Career Service System, including certain legislative branch personnel, judicial branch personnel, and personnel of the Office of the Governor; however, all positions under the University Support Personnel System of the SUS as well as all Career Service System positions under the FCS and the School for the Deaf and the Blind are included;
- Positions in political subdivisions of the state which are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices and the personal secretary of each officer;

preference statutes, and includes all the entities listed above, but also includes all Career Service System positions under the FCS and the School for the Deaf and the Blind among those required to give employment preference to veterans and spouses of veterans.

¹² s. 295.065, F.S.

¹³ Harris v. State, Public Employees Relations Com'n., 568 So.2d 475 (Fla. 1st DCA 1990).

¹⁴ Id.

¹⁵ s. 295.188, F.S.

¹⁶ s. 295.07(1)(a)-(g), F.S.

¹⁷ s. 295.07(4)(a)-(b), F.S.

- Members of boards and commissions;
- Persons employed on a temporary basis without benefits;
- Heads of departments;
- Positions that require licensure as a physician, licensure as an osteopathic physician, or licensure as a chiropractic physician; and
- Positions that require membership in The Florida Bar.

2. *If an Examination Determines Qualification for Employment*

If an examination is used to determine qualification for employment, points are added to the final examination score as follows:¹⁸

Category	Proposed
Disabled Veteran	15
Spouse of Person With Total Disability, Missing in Action, Captured in Line of Duty, Etc.	15
Wartime Veteran	10
Un-remarried widow/widower of Person Who Died of a Service-Connected Disability	10
Gold Star Family	10
Veteran	5
National Guard/Reserve	5

In order for points to be awarded, the applicant must first obtain a qualifying score on the examination.¹⁹

Florida law requires each government employer to enter the names of persons eligible for preference on an appropriate register or list in accordance with their respective ratings.²⁰ For most positions, the names of all persons qualified to receive a fifteen-point preference whose service-connected disabilities have been rated to be 30 percent or more must be placed at the top of the appropriate register or employment list, in accordance with their respective ratings.²¹ A Florida court determined that this provision gives an absolute preference for veterans to be placed at the top of the employment list only if the candidate has a 30 percent or more disability rating.²²

However, the court further declared that there are no statutory provisions suggesting that veterans receiving a five or ten point exam score augmentation must be hired over more qualified non-veterans.²³

3. *If an Examination Does Not Determine Qualification for Employment*

If an examination is not used to determine qualifications for a position, preference is given as follows:²⁴

- First preference is given to disabled veterans who have served on active duty in any branch of the Armed Forces and who presently have an existing service-connected disability which is compensable under public laws administered by the DVA or are receiving compensation,

¹⁸ s. 295.08, F.S.; Rule 55A-7.010, F.A.C., provides further procedures for calculating points if the highest possible exam score is other than 100.

¹⁹ Rule 55A-7.010(1), F.A.C.

²⁰ s. 295.08, F.S.

²¹ Id.

²² *Harris v. State, Public Employees Relations Com'n.*, 568 So.2d 475 (Fla. 1st DCA 1990).

²³ Id.

²⁴ s. 295.085, F.S.

disability retirement benefits, or pension by reason of public laws administered by the DVA and the Department of Defense; and the spouse of a veteran who has a total and permanent service-connected disability and who, because of this disability, cannot qualify for employment, or who is missing in action, captured in line of duty by a hostile force, or detained or interned in line of duty by a foreign government or power (i.e., those listed above in points a. and b. under "Persons Eligible for Employment Preference and Exceptions"); and

- Second preference is given to a veteran of any war; the unmarried widow or widower of a veteran who died of a service connected disability; the mother, father, legal guardian, or unmarried widow or widower of a service member who died as a result of military service under combat-related conditions; a veteran as defined in s. 1.01(14), F.S.; a current member of any reserve component of the U.S. Armed Forces or the Florida National Guard. (i.e., those listed above in points c. through g. under "Persons Eligible for Employment Preference and Exceptions").

In 1988, the Florida Attorney General opined that:

While mandating veterans' preference during the employment selection process, Ch. 295, F.S., by providing a means for reviewing the employment of a non-veteran over a preferred veteran, contemplates that non-veterans may be hired. Based upon this statutory scheme, I am unable to conclude that veterans' preference mandates that eligible veterans be hired over non-veterans. I have found no evidence of legislative intent to require the employment of veterans in all instances.²⁵

The DVA is responsible for promulgating rules or procedures to ensure that eligible persons are given special consideration in the selection and retention processes of government employers.²⁶ These procedures must ensure that, for positions that do not require an examination, eligible persons are given special consideration at each step of the employment selection process and are given special consideration in the retention of employees where layoffs are necessitated.²⁷

In 1988, the Florida Attorney General opined that veterans' preference provides special consideration for eligible veterans at each step of the employment selection process, but does not require the employment of a preferred veteran over a non-veteran who is the 'most qualified' applicant for the position. However, the employing agency is required to document and justify the decision to hire a non-veteran over the preferred veteran.²⁸

4. *Complaint and Appeal Process*

When a government employer selects a non-veteran over a person who is eligible for veterans' preference, the eligible person may file a written complaint with the DVA. DVA must investigate the complaint and may file an opinion with the Public Employees Relations Commission (PERC) as to the merit or lack of merit in each case. DVA must conduct all investigations within existing amounts appropriated by the Florida Legislature.²⁹

Jurisdiction to effectuate the purposes of the veterans' preference requirements rests with the PERC for appropriate administrative determination. If, upon preliminary review, the PERC agrees with the DVA's determination that a case lacks merit and finds a complete absence of justiciable issues of either law or fact raised by the veterans' preference complaint, the PERC must dismiss the complaint "without the necessity of holding a hearing."³⁰

²⁵ See Attorney General's Opinion 88-24.

²⁶ s. 295.07(2), F.S.

²⁷ Id.

²⁸ See Attorney General's Opinion 88-24.

²⁹ s. 295.11, F.S.

³⁰ s. 295.11, F.S.

When a government employer selects a non-veteran over a person who is eligible for veterans' preference, the initial burden is on the veteran to show minimal qualifications; a timely and proper application for a covered position; and that the employer selected a non-veteran over a veteran with a lesser preference. The burden then shifts to the employer to show that the non-veteran applicant was more qualified.³¹

If the PERC determines that a violation of the veterans' preference requirements has occurred, it must order the offending agency, employee, or officer to comply with the provisions and may issue an order to compensate the veteran for the loss of any wages and reasonable attorney's fees for actual hours worked, and costs of all work, including litigation, incurred as a result of the violation.³² However, attorney's fees and costs may not exceed \$10,000.³³

If reparation is sought through civil action in court, any agency, employee, or officer of a government employer found in violation of the veterans' preference requirements must also pay the costs of the suit and reasonable attorney's fees incurred in the action and pay damages as the court may award, any law to the contrary notwithstanding.³⁴

5. *State Government Veterans' Preference Provision*

With respect to non-exempt positions in the state's career service system, Florida law requires the state to grant a preference in hiring and retention to an eligible person if the eligible person meets the minimum eligibility requirements for the position and has the knowledge, skills, and abilities required for the position.³⁵ A disabled veteran employed as the result of being placed at the top of the appropriate employment list must be appointed for a probationary period of one year.³⁶ At the end of one year, if the disabled veteran's performance is satisfactory, the veteran will acquire permanent employment status and will be subject to the employment rules of the Florida Department of Management Services (DMS) and the veteran's employing agency.³⁷

6. *Federal Gold Star Mother Act*

Pursuant to the United States Code, federal employers are required to grant employment preference to the mother of either (a) a service-connected permanently and totally disabled veteran; or (b) an individual who lost his life under honorable conditions while serving in the U.S. Armed Forces during specified periods of active duty, provided that:³⁸

- Her husband is totally and permanently disabled;
- She is widowed, divorced, or separated from the father and has not remarried; or
- She has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed.

The U.S. Department of Veterans Affairs (USDVA) is the federal agency tasked with making the official determination of the existence of a service-connected disability. The term "disabled veteran" is defined as an individual who has served on active duty in the armed forces, has been separated under honorable conditions, and has established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a public statute administered by

³¹ West Coast Regional Water Supply Authority v. Harris, 604 So.2d 892, 893 (Fla. 1st DCA 1992); *See also Cox v. Pasco County*, 16 FPER Para. 21517 (1990); Rosete v. Department of Professional Regulation, 15 FPER Para. 20518 (1989); Varela v. Department of Health and Rehabilitative Services, 15 FPER Para. 20517 (1989).

³² s. 295.14(1), F.S.

³³ *Id.*

³⁴ s. 295.14(2), F.S.

³⁵ s. 110.2135(1), F.S.

³⁶ s. 110.2135(2), F.S.

³⁷ *Id.*

³⁸ 5 U.S.C. § 2108(3)(F), (G)

the USDVA or a military department.³⁹

The term “service-connected” is further defined in the U.S. Code to mean that the disability or death suffered by the veteran was incurred or aggravated in the line of duty in active military, naval, or air service.⁴⁰ There are instances in which a veteran’s service-connected disability is not determined by the USDVA. In this instance, the Department of Defense (DoD) would determine the existence of a disability and provide compensation to the veteran. The secretaries of the military departments have the authority to make the final determination of disability in each case.⁴¹ When that determination is made the servicemember may decide whether to receive military retirement benefits from the DoD or disability compensation from the USDVA.

7. Death Benefits for Family of Military Servicemembers

The United States Department of Defense (DOD) provides compensation to members of the United States Armed Forces through the death gratuity program.⁴² The death gratuity program provides for a special tax free payment of \$100,000 to eligible survivors of members of the United States Armed Forces, who die while on active duty or while serving in certain reserve statuses. The death gratuity is the same regardless of the cause of death.⁴³ The longstanding purpose of the death gratuity has been to provide immediate cash payment to assist survivors of deceased members of the United States Armed Forces to meet their financial needs during the period immediately following a servicemember's death and before other survivor benefits, if any, become available.⁴⁴ The death gratuity is also payable if an eligible servicemember or former servicemember dies within 120 days of release or discharge from active duty, or active duty for training when the Secretary of the USDVA determines that the death resulted from injury or disease incurred or aggravated during such duty.⁴⁵

According to the Department of Management Services (DMS), for fiscal year 2014-2015, 761 applicants claiming veterans’ preference were marked as hired by the employing agency in People First.⁴⁶ However, government employers are not required to track the number of persons who claim veterans’ preference; therefore, statistics indicating the number of eligible persons who requested veterans’ preference, or the number of persons who were hired as a result of the preference requirements, are not always available.

In addition, Florida law does not provide a policy concerning the active recruitment of veteran employees.

Proposed Changes

The bill revises the section of Florida law governing veterans’ preference in appointment and retention.

Specifically, the bill:

- Requires each state agency, and allows each political subdivision of the state, to develop and implement a written veterans’ recruitment plan;

³⁹ 5 USC 2108(2). See also s. 295.07(1)(a)1., F.S.

⁴⁰ 38 USC 101(16).

⁴¹ 10 USC 1201.

⁴² DOD Military Compensation, Death Gratuity, available at: <http://militarypay.defense.gov/Benefits/DeathGratuity.aspx> (last viewed January 18, 2016).

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ According to DMS staff, this number only reflects data from State Personnel System agencies and does not include data for any other government employer

- Requires each veterans' recruitment plan (developed and implemented by the state agency or political subdivision) to establish and meet annual goals for ensuring the full use of veterans in the agency's or subdivision's workforce;
- Requires the Department of Management Services (DMS) to collect statistical data for each state agency on the number of persons who claim veterans' preference, the number of persons who were hired through veterans' preference, and the number of persons who were hired as a result of the veterans' recruitment plan; and
- Requires DMS to annually update the statistical data on its website and include the statistics in its annual workforce report.

The bill requires each veterans' recruitment plan to apply to the same veterans and veterans' family members that are addressed in the Florida law governing veterans preference in appointment and retention (those veterans and their families listed and described on page 3 of this analysis).

B. SECTION DIRECTORY:

Section 1: Amends s. 295.07, F.S., relating to veterans' employment in the state workforce.

Section 2: Provides an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Requiring each state agency to develop and implement a written veterans' recruitment plan and to establish and meet new annual goals may create an indeterminate but likely insignificant negative fiscal impact to state agencies.

Requiring DMS to collect statistical data, annually update the data on its website, and include the data in its annual workforce report may create an indeterminate but likely insignificant negative fiscal impact to the department. There may be a programming impact to People First, but this should be insignificant and can be handled within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Allowing each political subdivision of the state to develop and implement a written veterans' recruitment plan may create an indeterminate negative fiscal impact to these political subdivisions. However, this is an authorization for the political subdivisions of the state and not a requirement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely have a positive fiscal impact to veterans in the state. Recruiting veterans to the state government workforce will likely increase the amount of veterans who are hired and, thereby, receive gainful employment.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Veteran & Military Affairs Subcommittee adopted one strike-all amendment and reported the bill favorably as a committee substitute. The amendment revises the requirements of the proposed veterans' recruitment plan and places the plan in the veterans' preference section of law in order to enhance and accurately track the state's practices relating to the recruitment and employment of veterans in the workforce. This analysis is drafted to the committee substitute as passed by the Veteran & Military Affairs Subcommittee. Specifically, the amendment:

- Makes the proposed veterans' recruitment plan a component of the state's veterans' preference in employment and retention law;
- Requires each state agency, and allows each political subdivision of the state, to develop and implement a recruitment plan;
- Requires specific goals for a recruitment plan to be set and met by the agencies and political subdivisions; and
- Requires the Department of Management Services to collect and publish data on each agency's recruitment plan and veterans' preference performance.

1 A bill to be entitled
 2 An act relating to veterans' employment; amending s.
 3 295.07, F.S.; requiring state agencies, and
 4 authorizing political subdivisions of the state, to
 5 develop and implement veterans' recruitment plans;
 6 providing plan requirements; requiring the Department
 7 of Management Services to collect specified data and
 8 include the data in its annual workforce report and on
 9 its website; providing applicability; providing an
 10 effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (5) is added to section 295.07,
 15 Florida Statutes, to read:

16 295.07 Preference in appointment and retention.—

17 (5) (a) Each state agency shall, and each political
 18 subdivision of the state may, develop and implement a written
 19 veterans' recruitment plan that establishes annual goals for
 20 ensuring the full use of veterans in the agency's or political
 21 subdivision's workforce. Each veterans' recruitment plan must be
 22 designed to meet the established goals.

23 (b) The Department of Management Services shall collect
 24 statistical data from each state agency on the number of persons
 25 who claim veterans' preference, the number of persons who are
 26 hired through veterans' preference, and the number of persons

27 | who are hired as a result of the veterans' recruitment plan. The
 28 | department shall annually update the statistical data required
 29 | by this paragraph on its website and include such statistical
 30 | data in its annual workforce report.

31 | (c) For purposes of this subsection, the veterans'
 32 | recruitment plan applies to the eligible persons described in
 33 | subsection (1).

34 | Section 2. This act shall take effect October 1, 2016.