

the department or its agent with a grade of 75 percent or above. Each applicant for examination shall submit a \$20 nonrefundable fee. The department shall by rule specify the general areas of competency to be covered by each examination and the relative weight to be assigned in grading each area tested.

(a) Application for examination for competency may be made by an individual or by an owner, a partner, or any person in a supervisory capacity of the license applicant. Upon successful completion of the competency examination, the department shall issue a qualifier identification card to the examinee. Such card shall remain in effect as long as the individual shows to the department proof of active employment in the area of examination. Should the individual terminate active employment in the area of examination for a period exceeding 24 months, the individual's qualifier status shall expire. The individual may reapply for examination by the department in order to reestablish qualifier status. Every business organization shall possess such a full-time qualifier at all times who has successfully completed an examination in the corresponding category of the license held by the business organization.

(b) A vacancy in a qualifier position in a business organization which results from the departure of the qualifier shall be immediately reported to the department. In the event a business organization no longer possesses a duly designated qualifier, as required by this section, its liquefied petroleum gas licenses shall be suspended by order of the department after 20 working days and shall remain suspended until a competent qualifier has been retained. A vacancy in the qualifier position for a period of over 20 working days shall be deemed to constitute an immediate threat to the public health, safety, and welfare. Failure to obtain a replacement qualifier within 60 days of the vacancy shall be grounds for revocation of licensure or eligibility for licensure.

(c) Any individual's competency qualifications on file with the department may be transferred to any existing licenseholder, by written request to the department from the person so qualified. By request in writing to the department, any individual who has on file the competency examination requirement may use this evidence on file for a new license application. Effective June 30, 1993, all examinations are confidential and exempt from the provisions of s. 119.07(1).

(3) A qualifier for a business organization involved in installation, repair, maintenance, or service of liquefied petroleum gas appliances, equipment, or systems must actually function in a supervisory capacity of other company employees installing, repairing, maintaining, or servicing liquefied petroleum gas appliances, equipment, or systems. A separate qualifier shall be required for every 10 such employees. Additional qualifiers are required for those business organizations employing more than 10 employees that install, repair, maintain, or service liquefied petroleum gas equipment and systems.

(4) If a duplicate license or qualifier card is requested by the licensee, a fee of \$10 must be received before issuance of the duplicate license or card. If a facsimile transmission of an original license is requested,

upon completion of the transmission a fee of \$10 must be received by the department before the original license may be mailed to the requester.

(5) All revenues collected herein shall be deposited in the General Inspection Trust Fund for the purpose of administering the provisions of this chapter.

**History.**—s. 2, ch. 24302, 1947; s. 2, ch. 57-174; s. 2, ch. 61-119; s. 1, ch. 61-158; ss. 13, 35, ch. 69-106; s. 1, ch. 70-35; s. 1, ch. 70-439; s. 1, ch. 74-296; s. 1, ch. 76-120; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 6, ch. 80-390; ss. 2, 18, 19, ch. 81-175; s. 401, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 1, 2, ch. 82-6; s. 1, ch. 84-126; s. 2, ch. 86-69; ss. 2, 3, ch. 87-34; s. 2, ch. 90-215; s. 4, ch. 91-429; s. 1, ch. 92-6; s. 2, ch. 92-324; s. 2, ch. 93-248; s. 6, ch. 94-335; s. 340, ch. 96-406.

**Note.**—Section 30, ch. 94-335, provides that "[t]his act shall take effect upon becoming a law; provided that, if this act becomes a law after March 1, 1994, the amendments to sections 527.02, 527.021, 527.06, 527.13, and 527.15, Florida Statutes, shall operate retroactively to March 1, 1994." Chapter 94-335 became a law June 3, 1994.

**Note.**—Former s. 526.13.

### **527.062 Investigation and safety promotion; authority of department.—**

(1) The department may investigate the cause and circumstances of any accident involving loss of life, personal injury, or property damage when there is reasonable cause to believe that liquefied petroleum gas or equipment was involved. The department shall have the authority to take samples or evidence on or about the site of an accident in conjunction with an investigation. The department shall make a written report of each investigation it conducts. All information compiled by the department pursuant to an investigation is confidential and exempt from s. 119.07(1) until the investigation is completed or ceases to be active. For purposes of this section, an investigation shall be considered "active" so long as the department is proceeding with reasonable dispatch and has a reasonable good faith belief that additional information is necessary and likely to be discovered which will allow the department to make a final determination of the cause and circumstances of the accident.

(2) The department shall have the authority to assist the state, county, municipal, and other local governments of this state and their agencies in promoting safety.

(3) The department shall have the authority to publish and disseminate information consistent with this chapter and the rules promulgated thereunder which it considers to be in the public interest for liquefied petroleum gas safety.

**History.**—ss. 5, 6, ch. 80-390; ss. 7, 19, ch. 81-175; s. 402, ch. 81-259; s. 2, ch. 81-318; ss. 1, 2, ch. 82-6; ss. 2, 3, ch. 87-34; s. 4, ch. 91-429; s. 2, ch. 92-6; s. 341, ch. 96-406.

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## **CHAPTER 538**

### **SECONDHAND DEALERS AND SECONDARY METALS RECYCLERS**

#### **PART I**

#### **SECONDHAND DEALERS**

538.11 Powers and duties of department; rules.

#### **538.11 Powers and duties of department; rules.—**

The same duties and privileges imposed by part I of

chapter 212 upon dealers of tangible personal property respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all persons who are subject to the provisions of this chapter. The department shall administer, collect, and enforce the registration authorized under this chapter pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of part I of chapter 212 regarding the keeping of records and books shall apply. The department, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules, and shall prescribe and publish such forms, as may be necessary to effectuate the purposes of this chapter. The Legislature hereby finds that the failure to promptly implement the provisions of this chapter would present an immediate threat to the welfare of the state. Therefore, the executive director of the department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4), for purposes of implementing this chapter. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the department related to and in furtherance of the orderly implementation of the chapter shall not be subject to a rule challenge under s. 120.56(2) or a drawout proceeding under s. 120.54(3)(c)2. but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3). Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

**History.**—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 247, ch. 96-410.  
**Note.**—Section 72, ch. 86-163, transferred "the statutory powers, duties, and functions, records and property of the Career Service Commission" to the Public Employees Relations Commission.

## CHAPTER 539

### PAWNBROKING

- 539.001 The Florida Pawnbroking Act.  
 539.002 Applicability.  
 539.003 Confidentiality.

#### 539.001 The Florida Pawnbroking Act.—

(1) **SHORT TITLE.**—This section may be cited as the "Florida Pawnbroking Act."

(2) **DEFINITIONS.**—As used in this section, the term:

(a) "Agency" means the Division of Consumer Services of the Department of Agriculture and Consumer Services.

(b) "Appropriate law enforcement official" means the sheriff of the county in which a pawnshop is located or, in case of a pawnshop located within a municipality, the police chief of the municipality in which the pawnshop is located; however, any sheriff or police chief may designate as the appropriate law enforcement official for the county or municipality, as applicable, any law enforcement officer working for the department headed by that sheriff or police chief.

(c) "Claimant" means a person who claims that his or her property was misappropriated and delivered into the possession of a pawnbroker.

(d) "Conveying customer" means a person who delivers property into the custody of a pawnbroker, either by pawn, sale, consignment, or trade, which property is later claimed to be misappropriated.

(e) "Identification" means a government-issued photographic identification.

(f) "Misappropriated" means stolen, embezzled, converted, or otherwise wrongfully appropriated against the will of the rightful owner.

(g) "Net worth" means total assets less total liabilities.

(h) "Pawn" means any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on the terms and conditions contained in this section.

(i) "Pawnbroker" means any person who is engaged in the business of making pawns; who makes a public display containing the term "pawn," "pawnbroker," or "pawnshop" or any derivative thereof; or who publicly displays a sign or symbol historically identified with pawns.

(j) "Pawnbroker transaction form" means the instrument on which a pawnbroker records pawns and purchases as provided in subsection (8).

(k) "Pawn service charge" means a charge for investigating the title, storage, and insuring of the security; closing the transaction; making daily reports to appropriate law enforcement officials; expenses and losses; and all other services.

(l) "Pawnshop" means the location at which a pawnbroker conducts business.

(m) "Permitted vendor" means a vendor who furnishes a pawnbroker with an invoice specifying the vendor's name and address, the date of the sale, a description of the items sold, and the sales price, and who has an established place of business, or, in the case of a secondhand dealer as defined in s. 538.03, has represented in writing that such dealer has complied with all applicable recordkeeping, reporting, and retention requirements pertaining to goods sold or otherwise delivered to a pawnbroker.

(n) "Person" means an individual, partnership, corporation, joint venture, trust, association, or other legal entity.

(o) "Pledged goods" means tangible personal property that is deposited with, or otherwise delivered into the possession of a pawnbroker in connection with a pawn. "Pledged goods" does not include titles or any other form of written security in tangible property in lieu of actual physical possession, including, but not limited to, choses in action, securities, printed evidence of indebtedness, or certificates of title and other instruments evidencing title to separate items of property, including motor vehicles. For purposes of federal and state bankruptcy laws, a pledgor's interest in his or her pledged goods during the pendency of a pawn is a right of redemption only.