

1                                   A bill to be entitled  
 2           An act relating to consumer protection; creating s.  
 3           501.0195, F.S.; providing legislative findings and  
 4           intent; defining the term "unlicensed vendor";  
 5           requiring an unlicensed vendor to take certain actions  
 6           within a specified timeframe after receiving payment;  
 7           providing that the unlicensed vendor has the burden to  
 8           prove just cause; providing criminal penalties;  
 9           amending s. 501.022, F.S.; removing an exemption from  
 10          permitting requirements for certain solicitors,  
 11          salespersons, and agents; providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:  
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15           Section 1. Section 501.0195, Florida Statutes, is created  
 16 to read:

17           501.0195 Home repairs by unlicensed vendors.—

18           (1) The Legislature finds that vigorous enforcement of  
 19 residential contracting laws is necessary to protect residents,  
 20 consumers, and this state's economy, and therefore, the  
 21 Legislature intends that this section be strictly construed and  
 22 enforced.

23           (2) For the purposes of this section, the term "unlicensed  
 24 vendor" means a person who:

25           (a) Provides or promises to provide services related to a

26 residential home and the extended parcel of land on which the  
27 home is located, including, but not limited to, driveways,  
28 lawns, trees, gardens, landscaping areas, walls, fences, or  
29 other vegetation or fixtures located thereon; and

30 (b) Is not deemed a "contractor" under s. 489.105(3).

31 (3) (a) An unlicensed vendor who receives an initial  
32 payment of any amount must do all of the following unless the  
33 unlicensed vendor has just cause or has agreed, in writing, with  
34 the person who made the payment to a longer timeframe for  
35 performance:

36 1. If the work requires a permit, apply for such permits  
37 within 14 days after receiving payment for the work.

38 2. Start the work within 14 days after receiving payment  
39 for the work or within 14 days after the date all necessary  
40 permits for work, if any, are issued.

41 3. Perform the work, without any failure to continue the  
42 work for any 14-day period after payment is made or 14 days  
43 after the date all necessary permits for work, if any, are  
44 issued.

45 (b) There is a presumption that an unlicensed vendor does  
46 not have just cause if the unlicensed vendor fails to comply  
47 with paragraph (a), fails to refund the payment within 14 days  
48 after receiving payment, or fails to continue the work for any  
49 14-day period after the date all necessary permits for work, if  
50 any, are issued. The burden is on the unlicensed vendor to prove

51 just cause and to rebut the presumption.

52 (4) A violation of this section is:

53 (a) If the total money received is less than \$300, a  
54 misdemeanor of the first degree, punishable as provided in s.  
55 775.082 or s. 775.083.

56 (b) If the total money received is less than \$300 and the  
57 unlicensed vendor has had more than one violation within a 3-  
58 year period, a felony of the third degree, punishable as  
59 provided in s. 775.082, s. 775.083, or s. 775.084.

60 (c) If the total money received is greater than or equal  
61 to \$300 but less than \$5,000, a felony of the third degree,  
62 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

63 (d) If the total money received is \$5,000 or more but less  
64 than \$50,000, a felony of the second degree, punishable as  
65 provided in s. 775.082, s. 775.083, or s. 775.084.

66 (e) If the total money received is \$50,000 or more, a  
67 felony of the first degree, punishable as provided in s.  
68 775.082, s. 775.083, or s. 775.084.

69 Section 2. Paragraphs (a) and (b) of subsection (1) of  
70 section 501.022, Florida Statutes, are amended to read:

71 501.022 Home solicitation sale; permit required.—

72 (1)(a) It is unlawful for any person to conduct any home  
73 solicitation sale, as defined in s. 501.021, or to supervise  
74 excluded minors conducting such sales provided in subparagraph  
75 (b)4. ~~subparagraph (b)5.~~, in this state without first obtaining

76 | a valid home solicitation sale permit as provided in this  
 77 | section.

78 | (b) The following are excluded from the operation of this  
 79 | section:

80 | 1. Bona fide agents, business representatives, or  
 81 | salespersons making calls or soliciting orders at the usual  
 82 | place of business of a customer regarding products or services  
 83 | for use in connection with the customer's business.

84 | 2. Solicitors, salespersons, or agents making a call or  
 85 | business visit upon the express invitation, oral or written, of  
 86 | an inhabitant of the premises or her or his agent.

87 | 3. Telephone solicitors, salespersons, or agents making  
 88 | calls which involve transactions that are unsolicited by the  
 89 | consumer and consummated by telephone and without any other  
 90 | contact between the buyer and the seller or its representative  
 91 | before ~~prior to~~ delivery of the goods or performance of the  
 92 | services.

93 | ~~4. Solicitors, salespersons, or agents conducting a sale,~~  
 94 | ~~lease, or rental of consumer goods or services by sample,~~  
 95 | ~~catalog, or brochure for future delivery.~~

96 | 4.5. Minors, as defined in s. 1.01(13), conducting home  
 97 | solicitation sales under the supervision of an adult supervisor  
 98 | who holds a valid home solicitation sale permit. Minors excluded  
 99 | from operation of this section must, however, carry personal  
 100 | identification which includes their full name, date of birth,

101 residence address, and employer and the name and permit number  
102 of their adult supervisor.

103 ~~5.6.~~ Those sellers or their representatives that are  
104 currently regulated as to the sale of goods and services by  
105 chapter 475 or chapter 497.

106 ~~6.7.~~ Solicitors, salespersons, or agents making calls or  
107 soliciting orders on behalf of a religious, charitable,  
108 scientific, educational, or veterans' institution or  
109 organization holding a sales tax exemption certificate under s.  
110 212.08(7).

111 Section 3. This act shall take effect July 1, 2020.