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ALCOHOLIC BEVERAGES AND TOBACCO

BEVERAGE LAW: ENFORCEMENT

### CHAPTER 562

#### BEVERAGE LAW: ENFORCEMENT

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**562.01 Possession of untaxed beverages.**—It is unlawful for any person to own, possess, purchase, sell, serve, distribute, or store any alcoholic beverages unless said person has fully complied with the pertinent provisions of the beverage law relating to the payment of excise taxes.

**History.**—s. 9, ch. 16774, 1935; CGL 1936 Supp. 4151(235); s. 10, ch. 18015, 1937; s. 2, ch. 20830, 1941; s. 1, ch. 57-327; s. 147, ch. 71-355; s. 2, ch. 72-230.

**562.02 Possession of beverage not permitted to be sold under license.**—It is unlawful for a licensee under the Beverage Law or his or her agent to have in his or her possession, or permit anyone else to have in his or her possession, at or in the place of business of such licensee, alcoholic beverages not authorized by law to be sold by such licensee.

**History.**—s. 7, ch. 18015, 1937; s. 4, ch. 19301, 1939; CGL 1940 Supp. 4151(271g); s. 12, ch. 23746, 1947; s. 2, ch. 72-230; s. 854, ch. 97-103.

**562.025 Possession of beverages as food ingredients.**—This chapter shall not be construed to prohibit the owner or employee of a public food service establishment from possessing or using alcoholic beverages manufactured pursuant to law as ingredients to enhance the flavor of food prepared in connection with the operation of such establishment, provided that such public food service establishment meets the following criteria:

- (1) Such public food service establishment shall hold a license which allows consumption of alcoholic beverages on the premises, issued by the Division of Alcoholic Beverages and Tobacco; and
- (2) Such public food service establishment shall hold a license issued by the Division of Hotels and Restaurants.

Every such establishment shall maintain a menu on the premises which menu shall clearly designate the food containing alcoholic beverages. Daily specials need not be so posted. Alcoholic beverages may be used by the above licensees only as ingredients to enhance the flavor of food prepared and served on the licensed premises. It is the intention of this section to allow the use of such alcoholic beverages by the aforementioned licensees in the actual cooking of food and in the enhancement of the flavor of certain foods and desserts. This section shall not be construed so as to permit any other use of alcoholic beverages by such licensees or the purchase of spirituous beverages except from a licensed vendor.

**History.**—s. 1, ch. 79-70.

**562.03 Storage on licensed premises.—**

(1) It is unlawful for any vendor to store or keep any alcoholic beverages in any building or room other than:

- (a) The building or room shown in the diagram accompanying the vendor's license application;
- (b) A building or room approved by the division and located in a county where the vendor has a license; or
- (c) A building or room approved by the division and used only in conjunction with a catered event operated by an entity with a license issued pursuant to s. 565.02(1)(a)-(f).

(2) This section does not apply to any alcoholic beverages that are intended only for the personal consumption of the vendor, the vendor's family, or the vendor's personal guests.

**History.**—s. 6, ch. 16774, 1935; CGL 1936 Supp. 4151(232); s. 1, ch. 57-327; ss. 16, 35, ch. 69-106; s. 2, ch. 72-230; s. 855, ch. 97-103; s. 19, ch. 2021-135.

**562.06 Sale only on licensed premises.—**Each license application shall describe the location of the place of business where such beverage may be sold. It is unlawful to sell, or permit the sale of such beverage except on the premises covered by the license as described in the application therefor.

**History.**—s. 11, ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; s. 1, ch. 57-327; s. 2, ch. 72-230.

**562.061 Misrepresentation of beverages sold on licensed premises.—**It is unlawful for any licensee, his or her agent or employee knowingly to sell or serve any beverage represented or purporting to be an alcoholic beverage which in fact is not such beverage. It is further unlawful for any licensee knowingly to keep or store on the licensed premises any bottles which are filled or contain liquid other than that stated on the label of such bottle.

**History.**—s. 2, ch. 57-327; s. 2, ch. 72-230; s. 856, ch. 97-103.

**562.07 Illegal transportation of beverages.—**It is unlawful for alcoholic beverages to be transported in quantities of more than 12 bottles except as follows:

- (1) By common carriers;
  - (2) In the owned or leased vehicles of licensed vendors or any persons authorized in s. 561.57(3) transporting alcoholic beverage purchases from the distributor's place of business to the vendor's licensed place of business or off-premises storage for alcoholic beverages purchased and transported as provided for in the alcoholic beverage law;
  - (3) By individuals who possess such beverages not for resale within the state;
  - (4) By licensed manufacturers, distributors, or vendors transporting alcoholic beverages pursuant to s. 561.57;
- and
- (5) By a vendor, distributor, pool buying agent, or salesperson of wine and spirits as outlined in s. 561.57(4).

**History.**—s. 11, ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; s. 2, ch. 72-230; s. 7, ch. 88-308; s. 857, ch. 97-103; s. 2, ch. 2013-170; s. 6, ch. 2015-12.

**<sup>1</sup>562.11 Selling, giving, or serving alcoholic beverages to person under age 21; providing a proper name; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.—**

(1)(a) A person may not sell, give, serve, or permit to be served alcoholic beverages to a person under 21 years of age or permit a person under 21 years of age to consume such beverages on the licensed premises. A person who violates this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who violates this paragraph a second or subsequent time within 1 year after a prior conviction commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A licensee, or his or her or its agents, officers, servants, or employees, may not provide alcoholic beverages to a person younger than 21 years of age who is employed by the licensee except as authorized pursuant to s. 562.111 or s. 562.13, and may not permit a person younger than 21 years of age who is employed by the licensee to consume alcoholic beverages on the licensed premises or elsewhere while in the scope of employment. A licensee, or his or her or its agents, officers, servants, or employees, who violates this paragraph commits a misdemeanor of

the first degree, punishable as provided in s. 775.082 or s. 775.083. This paragraph may be cited as “the Christopher Fugate Act.”

(c) A licensee who violates paragraph (a) shall have a complete defense to any civil action therefor, except for any administrative action by the division under the Beverage Law, if, at the time the alcoholic beverage was sold, given, served, or permitted to be served, the person falsely evidenced that he or she was of legal age to purchase or consume the alcoholic beverage and the appearance of the person was such that an ordinarily prudent person would believe him or her to be of legal age to purchase or consume the alcoholic beverage and if the licensee carefully checked one of the following forms of identification with respect to the person: a driver license, an identification card issued under the provisions of s. 322.051 or, if the person is physically handicapped as defined in <sup>2</sup>s. 553.45(1), a comparable identification card issued by another state which indicates the person’s age, a passport, or a United States Uniformed Services identification card, and acted in good faith and in reliance upon the representation and appearance of the person in the belief that he or she was of legal age to purchase or consume the alcoholic beverage. Nothing herein shall negate any cause of action which arose prior to June 2, 1978.

(d) Any person charged with a violation of paragraph (a) has a complete defense if, at the time the alcoholic beverage was sold, given, served, or permitted to be served:

1. The buyer or recipient falsely evidenced that he or she was 21 years of age or older;
2. The appearance of the buyer or recipient was such that a prudent person would believe the buyer or recipient to be 21 years of age or older; and
3. Such person carefully checked a driver license or an identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 21 years of age or older.

(2) It is unlawful for any person to misrepresent or misstate his or her age or the age of any other person for the purpose of inducing any licensee or his or her agents or employees to sell, give, serve, or deliver any alcoholic beverages to a person under 21 years of age, or for any person under 21 years of age to purchase or attempt to purchase alcoholic beverages.

(a) Anyone convicted of violating the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person under the age of 17 years who violates such provisions shall be within the jurisdiction of the judge of the circuit court and shall be dealt with as a juvenile delinquent according to law.

(c) In addition to any other penalty imposed for a violation of this subsection, if a person uses a driver license or identification card issued by the Department of Highway Safety and Motor Vehicles in violation of this subsection, the court may order the person to participate in public service or a community work project for a period not to exceed 40 hours.

(3) Any person under the age of 21 years testifying in any criminal prosecution or in any hearing before the division involving the violation by any other person of the provisions of this section may, at the discretion of the prosecuting officer, be given full and complete immunity from prosecution for any violation of law revealed in such testimony that may be or may tend to be self-incriminating, and any such person under 21 years of age so testifying, whether under subpoena or otherwise, shall be compelled to give any such testimony in such prosecution or hearing for which immunity from prosecution therefor is given.

(4) This section does not apply to a person who gives, serves, or permits to be served an alcoholic beverage to a student who is at least 18 years of age, if the alcoholic beverage is delivered as part of the student’s required curriculum at a postsecondary educational institution that is institutionally accredited by an agency recognized by the United States Department of Education and is licensed or exempt from licensure pursuant to the provisions of chapter 1005 or that is a public postsecondary education institution; if the student is enrolled in the college and is required to taste alcoholic beverages that are provided only for instructional purposes during classes conducted under the supervision of authorized instructional personnel pursuant to such a curriculum; if the alcoholic beverages are never offered for consumption or imbibed by such a student and at all times remain in the possession

and control of such instructional personnel, who must be 21 years of age or older; and if each participating student executes a waiver and consent in favor of the state and indemnifies the state and holds it harmless.

**History.**—s. 11, ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; s. 15, ch. 23746, 1947; s. 20, ch. 25359, 1949; s. 1, ch. 57-327; s. 1, ch. 67-355; ss. 16, 35, ch. 69-106; s. 563, ch. 71-136; s. 2, ch. 72-230; s. 26, ch. 73-334; s. 49, ch. 77-121; s. 1, ch. 78-134; s. 19, ch. 79-11; s. 2, ch. 80-74; s. 413, ch. 81-259; s. 12, ch. 84-359; s. 2, ch. 85-285; s. 3, ch. 90-265; s. 22, ch. 91-60; s. 5, ch. 92-176; s. 858, ch. 97-103; s. 1, ch. 99-156; s. 1, ch. 2002-7; s. 67, ch. 2003-1; s. 4, ch. 2003-20; s. 1, ch. 2006-203; s. 1, ch. 2010-47; s. 41, ch. 2014-216; s. 23, ch. 2019-167.

<sup>1</sup>**Note.**—Section 6, ch. 85-285, in pertinent part provides that “[i]n the event that a federal court of last resort determines that it is unconstitutional for the Federal Government to withhold transportation funds from the state because the legal age of the sale, consumption, or possession of alcoholic beverages is under 21 years of age or if federal legislation is enacted to allow the drinking age to be lowered or modified from 21 years of age, it is the intent of the Legislature that the amendments to [this section] contained in this act shall be null and void and that [this section reverts] to the language existing . . . on June 30, 1985.”

<sup>2</sup>**Note.**—Repealed by s. 4, ch. 93-183.

### **1562.111 Possession of alcoholic beverages by persons under age 21 prohibited.—**

(1) It is unlawful for any person under the age of 21 years, except a person employed under the provisions of s. 562.13 acting in the scope of her or his employment, to have in her or his possession alcoholic beverages, except that nothing contained in this subsection shall preclude the employment of any person 18 years of age or older in the sale, preparation, or service of alcoholic beverages in licensed premises in any establishment licensed by the Division of Alcoholic Beverages and Tobacco or the Division of Hotels and Restaurants. Notwithstanding the provisions of s. 562.45, any person under the age of 21 who is convicted of a violation of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; however, any person under the age of 21 who has been convicted of a violation of this subsection and who is thereafter convicted of a further violation of this subsection is, upon conviction of the further offense, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The prohibition in this section against the possession of alcoholic beverages does not apply to the tasting of alcoholic beverages by a student who is at least 18 years of age, who is tasting the alcoholic beverages as part of the student’s required curriculum at a postsecondary educational institution that is institutionally accredited by an agency recognized by the United States Department of Education and that is licensed or exempt from licensure pursuant to the provisions of chapter 1005 or is a public postsecondary education institution; if the student is enrolled in the college and is tasting the alcoholic beverages only for instructional purposes during classes that are part of such a curriculum; if the student is allowed only to taste, but not consume or imbibe, the alcoholic beverages; and if the alcoholic beverages at all times remain in the possession and control of authorized instructional personnel of the college who are 21 years of age or older.

**History.**—s. 2, ch. 57-327; s. 2, ch. 72-230; s. 50, ch. 77-121; s. 3, ch. 80-74; s. 3, ch. 85-285; s. 4, ch. 90-265; s. 859, ch. 97-103; s. 2, ch. 2002-7; s. 68, ch. 2003-1; s. 24, ch. 2019-167.

<sup>1</sup>**Note.**—Section 6, ch. 85-285, in pertinent part provides that “[i]n the event that a federal court of last resort determines that it is unconstitutional for the Federal Government to withhold transportation funds from the state because the legal age of the sale, consumption, or possession of alcoholic beverages is under 21 years of age or if federal legislation is enacted to allow the drinking age to be lowered or modified from 21 years of age, it is the intent of the Legislature that the amendments to [this section] contained in this act shall be null and void and that [this section reverts] to the language existing . . . on June 30, 1985.”

### **562.112 Alcohol-related or drug-related overdoses; medical assistance; immunity from arrest, charge, prosecution, and penalization.—**

(1) A person who gives alcohol to an individual under 21 years of age and who, acting in good faith, seeks medical assistance for the individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose may not be arrested, charged, prosecuted, or penalized for a violation of s. 562.11 or s. 562.111 if the evidence for such offense was obtained as a result of the person’s seeking medical assistance. The person must remain at the scene until emergency medical services personnel arrive and must cooperate with the emergency medical services personnel and law enforcement officers at the scene.

(2) A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized

for a violation of s. 562.11 or s. 562.111 if the evidence for such offense was obtained as a result of the person's seeking medical assistance.

(3) Protection under this section from arrest, charge, prosecution, or penalization for an offense listed in this section may not be grounds for suppression of evidence in other criminal prosecutions.

History.—s. 1, ch. 2019-81.

**562.12 Beverages sold with improper license, or without license or registration, or held with intent to sell prohibited.—**

(1)(a) It is unlawful for any person to sell alcoholic beverages without a license, and it is unlawful for any licensee to sell alcoholic beverages except as permitted by her or his license, or to sell such beverages in any manner except that permitted by her or his license; and any licensee or other person who keeps or possesses alcoholic beverages not permitted to be sold by her or his license, or not permitted to be sold without a license, with intent to sell or dispose of same unlawfully, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person, including a licensee, who unlawfully sells alcoholic beverages at a commercial establishment or keeps and maintains a place where alcoholic beverages are sold or intended to be sold unlawfully commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and must pay a fine of not less than \$5,000 and not more than \$10,000.

(2) Any person, including a licensee, who commits a second or subsequent violation of subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and must pay a fine of not less than \$15,000 and not more than \$20,000.

(3) It is unlawful for any person to operate as an exporter of alcoholic beverages within the state without registering as an exporter pursuant to s. 561.17. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Upon the arrest of any licensee or other person charged with a violation of this section, the arresting officer shall take into her or his custody all alcoholic beverages found in the possession, custody, or control of the person arrested or, in the case of a licensee, all alcoholic beverages not within the purview of her or his license, and safely keep and preserve the same and have it forthcoming at any investigation, prosecution, or other proceeding for the violation of this section and for the destruction of the same as provided herein. Upon the conviction of the person arrested for a violation of this section, the judge of the court trying the case, after notice to the person convicted and any other person whom the judge may be of the opinion is entitled to notice, as the judge may deem reasonable, shall issue to the sheriff of the county, the division, or the authorized municipality a written order adjudging and declaring the alcoholic beverages forfeited and directing the sheriff, the division, or the authorized municipality to dispose of the alcoholic beverages as provided in s. 562.44 or s. 568.10.

History.—s. 11, ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; s. 1, ch. 28069, 1953; s. 1, ch. 61-218; ss. 16, 35, ch. 69-106; s. 564, ch. 71-136; s. 2, ch. 72-230; s. 20, ch. 79-11; s. 23, ch. 91-60; s. 860, ch. 97-103; s. 1, ch. 2024-77.

**562.121 Operating bottle club without license prohibited.—**It is unlawful for any person to operate a bottle club without the license required by s. 561.14(6). Any person convicted of a violation of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 5, ch. 90-233.

**562.13 Employment of minors or certain other persons by certain vendors prohibited; exceptions.—**

(1) Unless otherwise provided in this section, it is unlawful for any vendor licensed under the Beverage Law to employ any person under 18 years of age.

(2) This section shall not apply to:

(a) Professional entertainers 17 years of age who are not in school.

(b) Minors employed in the entertainment industry, as defined by s. 450.012(5), who have either been granted a waiver under s. 450.095 or employed under the terms of s. 450.132 or under rules adopted pursuant to either of these sections.

(c) Persons under the age of 18 years who are employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations which have obtained licenses to sell beer or beer and wine, when such sales are made for consumption off the premises.

(d) Persons 17 years of age or over or any person furnishing evidence that he or she is a senior high school student with written permission of the principal of said senior high school or that he or she is a senior high school graduate, or any high school graduate, employed by a bona fide food service establishment where alcoholic beverages are sold, provided such persons do not participate in the sale, preparation, or service of the beverages and that their duties are of such nature as to provide them with training and knowledge as might lead to further advancement in food service establishments.

(e) Persons under the age of 18 years employed as bellhops, elevator operators, and others in hotels when such employees are engaged in work apart from the portion of the hotel property where alcoholic beverages are offered for sale for consumption on the premises.

(f) Persons under the age of 18 years employed in bowling alleys in which alcoholic beverages are sold or consumed, so long as such minors do not participate in the sale, preparation, or service of such beverages.

(g) Persons under the age of 18 years employed by a bona fide dinner theater as defined in this paragraph, as long as their employment is limited to the services of an actor, actress, or musician. For the purposes of this paragraph, a dinner theater means a theater presenting consecutive productions playing no less than 3 weeks each in conjunction with dinner service on a regular basis. In addition, both events must occur in the same room, and the only advertised price of admission must include both the cost of the meal and the attendance at the performance.

(h) Persons under the age of 18 years who are employed in places of business licensed under s. 565.02(6), provided such persons do not participate in the sale, preparation, or service of alcoholic beverages.

However, a minor who qualifies for one of the exceptions in this subsection may not be employed as or perform as a professional entertainer or otherwise if such employment involves nudity, as defined in s. 847.001, on the part of the minor and such nudity is intended as a form of adult entertainment, or be employed by an adult entertainment establishment, as defined in s. 847.001.

(3)(a) It is unlawful for any vendor licensed under the beverage law to employ as a manager or person in charge or as a bartender any person:

1. Who has been convicted within the last past 5 years of any offense against the beverage laws of this state, the United States, or any other state.

2. Who has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or any felony violation of chapter 893 or the controlled substances act of any other state or the Federal Government.

3. Who has, in the last past 5 years, been convicted of any felony in this state, any other state, or the United States.

The term “conviction” shall include an adjudication of guilt on a plea of guilty or nolo contendere or forfeiture of a bond when such person is charged with a crime.

(b) This subsection shall not apply to any vendor licensed under the provisions of s. 563.02(1)(a) or s. 564.02(1)(a).

**History.**—s. 11, ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; s. 1, ch. 22669, 1945; s. 21, ch. 25359, 1949; s. 2, ch. 29964, 1955; s. 1, ch. 57-327; s. 1, ch. 61-429; s. 1, ch. 65-534; s. 1, ch. 67-2208; ss. 16, 35, ch. 69-106; s. 1, ch. 72-183; s. 2, ch. 72-230; s. 1, ch. 73-358; s. 1, ch. 73-365; s. 2, ch. 76-288; s. 1, ch. 77-174; s. 2, ch. 91-60; s. 6, ch. 92-176; s. 52, ch. 95-144; s. 1, ch. 97-44; s. 861, ch. 97-103; s. 5, ch. 2017-137; s. 6, ch. 2024-184.

### **562.131 Solicitation for sale of alcoholic beverage prohibited; penalty.—**

(1) It is unlawful for any licensee, his or her employee, agent, servant, or any entertainer employed at the licensed premises or employed on a contractual basis to entertain, perform or work upon the licensed premises to

beg or solicit any patron or customer thereof or visitor in any licensed premises to purchase any beverage, alcoholic or otherwise, for such licensee's employee, agent, servant, or entertainer.

(2) It is unlawful for any licensee, his or her employee, agent, or servant to knowingly permit any person to loiter in or about the licensed premises for the purpose of begging or soliciting any patron or customer of, or visitor in, such premises to purchase any beverage, alcoholic or otherwise.

(3) Any violation of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

*History.*—ss. 1-3, ch. 61-234; s. 1, ch. 65-111; s. 565, ch. 71-136; s. 2, ch. 72-230; s. 862, ch. 97-103.

**562.14 Regulating the time for sale of alcoholic and intoxicating beverages; prohibiting use of licensed premises.—**

(1) Except as otherwise provided by county or municipal ordinance, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division between the hours of midnight and 7 a.m. of the following day. This section shall not apply to railroads selling only to passengers for consumption on railroad cars.

(2) Except as otherwise provided by county or municipal ordinance, no vendor issued an alcoholic beverage license to sell alcoholic beverages for consumption on the vendor's licensed premises and whose principal business is the sale of alcoholic beverages, shall allow the licensed premises, as defined in s. 561.01(11), to be rented, leased, or otherwise used during the hours in which the sale of alcoholic beverages is prohibited. However, this prohibition shall not apply to the rental, lease, or other use of the licensed premises on Sundays after 8 a.m. Further, neither this subsection, nor any local ordinance adopted pursuant to this subsection, shall be construed to apply to a theme park complex as defined in s. 565.02(6) or an entertainment/resort complex as defined in s. 561.01(18).

(3) The division shall not be responsible for the enforcement of the hours of sale established by county or municipal ordinance.

(4) Any person violating this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

*History.*—s. 11, ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; ss. 1-4, ch. 21944, 1943; s. 1, ch. 22605, 1945; s. 16, ch. 23746, 1947; s. 1, ch. 57-327; ss. 16, 35, ch. 69-106; s. 566, ch. 71-136; s. 2, ch. 72-230; s. 21, ch. 79-11; s. 3, ch. 97-165.

**562.15 Unlawful possession; unpaid taxes.—**It is unlawful for any person to own or possess within this state any alcoholic beverage, unless full compliance has been had with the pertinent provisions of the Beverage Law as to payment of excise taxes on beverages of like alcohol content. However, this section shall not apply:

(1) To manufacturers or distributors licensed under the Beverage Law, to state bonded warehouses, or to common carriers; or

(2) To persons possessing not in excess of 1 gallon of such beverages if the beverage shall have been purchased by said possessor outside of the state in accordance with the laws of the place where purchased and shall have been brought into this state by said possessor. The burden of proof that such beverages were purchased outside the state and in accordance with the laws of the place where purchased shall in all cases be upon the possessor of such beverages.

*History.*—s. 5, ch. 18015, 1937; s. 5, ch. 19301, 1939; CGL 1940 Supp. 4151(271e); s. 2, ch. 22669, 1945; s. 147, ch. 71-355; s. 2, ch. 72-230; s. 4, ch. 86-269.

**562.16 Possession of beverages upon which tax is unpaid.—**Any person or corporation who shall own or have in her or his or its possession any beverage upon which a tax is imposed by the Beverage Law, or which would be imposed if such beverage were manufactured in or brought into this state in accordance with the regulatory provisions of the Beverage Law, and upon which such tax has not been paid shall, in addition to the fines and penalties otherwise provided in the Beverage Law, be personally liable for the amount of the tax imposed on such beverage, and the division may collect such tax from such person by suit or otherwise; provided, that this section shall not apply to manufacturers or distributors licensed under the Beverage Law, to state bonded warehouses or to



common carriers; provided, further, this section shall not apply to persons possessing not in excess of 1 gallon of such beverages; provided, the beverage shall have been purchased by said possessor outside of the state in accordance with the laws of the place where purchased and shall have been brought into this state by said possessor. The burden of proof that such beverages were purchased outside the state and in accordance with the laws of the place where purchased in all cases shall be upon the possessor of such beverages.

**History.**—s. 5, ch. 18015, 1937; s. 5, ch. 19301, 1939; CGL 1940 Supp. 4151(271e); s. 3, ch. 22669, 1945; s. 1, ch. 57-327; ss. 16, 35, ch. 69-106; s. 2, ch. 72-230; s. 863, ch. 97-103.

**562.165 Production of beer or wine for personal or family use; exemption.—**

(1) Notwithstanding any provisions to the contrary, a person who is not prohibited by s. 562.111 from possessing alcoholic beverages may produce beer for personal or family use, and not for sale, in the amounts provided in this section without payment of taxes or fees or without a license. The aggregate amount of such beer permitted to be produced with respect to any household shall be as follows:

(a) Not in excess of 200 gallons per calendar year if there are two or more such persons in such household.

(b) Not in excess of 100 gallons per calendar year if there is only one such person in such household.

(2) Notwithstanding any provisions to the contrary, a person who is not prohibited by s. 562.111 from possessing alcoholic beverages may produce wine for personal or family use, and not for sale, in the amounts provided in this section without payment of taxes or fees or without a license. The aggregate amount of such wine permitted to be produced with respect to any household shall be as follows:

(a) Not in excess of 200 gallons per calendar year if there are two or more such persons in such household.

(b) Not in excess of 100 gallons per calendar year if there is only one such person in such household.

(3) Any personal or family production of beer or wine in excess of the amount permitted in this section or any sale of such alcoholic beverages constitutes a violation of the Beverage Law.

(4) Wine and beer made under the provisions of this section may be removed from the premises where made for personal or family use, including use at organized affairs, exhibitions, or competitions, such as homemakers' contests, tastings, or judgments. Wine or beer used under this subsection shall not be sold or offered for sale.

**History.**—s. 1, ch. 80-365; s. 48, ch. 83-216.

**562.17 Collection of unpaid beverage taxes.—**Any excise tax imposed by the Beverage Law may be collected as any other excise tax imposed by the state, and all rights and remedies available in the collection of any excise tax imposed by the state are made available for the collection of taxes imposed under the Beverage Law. Any and all taxes due the state on alcoholic beverages may be collected as provided in s. 210.14.

**History.**—s. 5, ch. 18015, 1937; s. 5, ch. 19301, 1939; CGL 1940 Supp. 4151(271e); s. 22, ch. 25359, 1949; s. 2, ch. 72-230.

**562.18 Possession of beverage upon which federal tax unpaid.—**It is unlawful for any person to have in her or his possession within this state any alcoholic beverage on which a federal excise tax is required to be paid, unless such federal excise tax has been paid as to such beverage.

**History.**—s. 4, ch. 18015, 1937; CGL 1940 Supp. 4151(271d); s. 2, ch. 72-230; s. 864, ch. 97-103.

**562.20 Monthly reports by common and other carriers of beverages required.—**

(1) All common carriers of freight operating in the state shall file monthly reports with the division on forms to be prepared by the division which shall show in detail all shipments of alcoholic beverages transported by them to or from any point within the state.

(2) Every other person, except manufacturers and distributors licensed in this state who are required to make reports under s. 561.55, who brings into the state from any point without the state any alcoholic beverages, in amounts exceeding 1 gallon in the aggregate, shall likewise file monthly reports with the division on the forms to be prepared by the division, which shall show in detail all such amounts of alcoholic beverages transported by them to any point within the state from any point without the state. Every licensee under this law who ships any alcoholic beverage to points beyond the state shall file monthly reports with the division on forms to be prepared by the division, which shall show in detail all shipments of alcoholic beverages transported by them from any point within the state to any point without the state.

(3) Such reports shall show in detail the name of the shipper and the consignee of each shipment and a description of the kind and amount of each such shipment and shall be filed monthly on or before the 15th of each month for the calendar month previous.

**History.**—s. 12, ch. 16774, 1935; CGL 1936 Supp. 4151(238); s. 1, ch. 21840, 1943; ss. 16, 35, ch. 69-106; s. 2, ch. 72-230; s. 22, ch. 79-11.

**562.23 Conspiracy to violate Beverage Law; penalty.**—If two or more persons shall conspire to do any act which is in violation of any of the provisions of the Beverage Law, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy, if the act so conspired to be done would be a misdemeanor under the provisions of the Beverage Law, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, or, if the act so conspired to be done would be a felony under the provisions of the Beverage Law, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**History.**—s. 6, ch. 19301, 1939; CGL 1940 Supp. 7648(26); s. 3, ch. 29964, 1955; s. 568, ch. 71-136; s. 2, ch. 72-230.

**562.24 Administration of oaths by director or authorized employees.**—The director and authorized employees of the division may administer oaths or affirmations on statements of defendants charged with the violation of the Beverage Law and other things directly connected with the enforcement of said law.

**History.**—s. 7, ch. 19301, 1939; CGL 1940 Supp. 4151(271-o); ss. 16, 35, ch. 69-106; s. 2, ch. 72-230; s. 23, ch. 79-11.

**562.25 State bonded warehouses.**—

(1) No operator of any storage warehouse shall accept for storage in such warehouse any alcoholic beverage subject to tax under the Beverage Law until such operator shall have obtained from the division a permit to store such beverage and shall have filed a bond payable to the division, conditioned upon the full compliance by such operator with the provisions of this section. This section shall not apply to a federal bonded warehouse owned wholly by, and operated solely for, a manufacturer or distributor licensed under the Beverage Law. Such permit shall issue upon the payment of \$1 to the division, and may be refused, suspended, or revoked in the same manner and upon the same grounds that the license of a distributor may be refused, suspended, or revoked. Such bond shall be in an amount of not more than \$5,000 nor less than \$1,000, in the discretion of the division, with a surety company licensed to do business in the state as surety.

(2) On or before the 10th day of each month the operator of any state bonded warehouse shall report, on forms furnished by the division, the amount of such beverages on deposit in such warehouse on the last day of the previous calendar month and the amount of such beverages deposited in and withdrawn from such warehouse during the previous calendar month, except that no report shall be required as to such beverages on which all taxes have been paid which have been deposited in storage by a vendor licensed under the Beverage Law.

**History.**—s. 8, ch. 19301, 1939; CGL 1940 Supp. 4151(271p); s. 24, ch. 57-1; ss. 16, 35, ch. 69-106; s. 2, ch. 72-230.

**562.26 Delivering beverage on which tax unpaid.**—It is unlawful for any storage warehouse operator to deliver any beverages subject to tax under the Beverage Law and on which the tax has not been paid to anyone within the state except a common carrier or a manufacturer or distributor licensed under the Beverage Law to manufacture or distribute the type of beverage so delivered.

**History.**—s. 8, ch. 19301, 1939; CGL 1940 Supp. 4151(271p); s. 2, ch. 72-230.

**562.27 Seizure and forfeiture.**—

(1) It is unlawful for any person to have in her or his possession, custody, or control, or to own, make, construct, or repair, any still, still piping, still apparatus, or still worm, or any piece or part thereof, designed or adapted for the manufacture of an alcoholic beverage, or to have in her or his possession, custody or control any receptacle or container containing any mash, wort, or wash, or other fermented liquids whatever capable of being distilled or manufactured into an alcoholic beverage, unless such possession, custody, control, ownership, manufacture, construction, or repairing be by or for a person authorized by law to manufacture such alcoholic beverage.

(2) It is unlawful for any person to have in her or his possession, custody, or control any raw materials or substance intended to be used in the distillation or manufacturing of an alcoholic beverage unless the person holds a license from the state authorizing the manufacture of the alcoholic beverage.

(3) The terms “raw material” or “substance” for the purpose of this chapter shall mean and include, but not be limited to, any of the following: Any grade or type of sugar, syrup, or molasses derived from sugarcane, sugar beets, corn, sorghum, or any other source; starch; potatoes; grain or cornmeal, corn chops, cracked corn, rye chops, middlings, shorts, bran, or any other grain derivative; malt; malt sugar or malt syrup; oak chips, charred or not charred; yeast; cider; honey; fruit; grapes; berries; fruit, grape or berry juices or concentrates; wine; caramel; burnt sugar; gin flavor; Chinese bean cake or Chinese wine cake; urea; ammonium phosphate, ammonium carbonate, ammonium sulphate, or any other yeast food; ethyl acetate or any other ethyl ester; any other material of the character used in the manufacture of distilled spirits or any chemical or other material suitable for promoting or accelerating fermentation; any chemical or material of the character used in the production of distilled spirits by chemical reaction; or any combination of such materials or chemicals.

(4) Any such raw materials, substance, or any still, still piping, still apparatus, or still worm, or any piece or part thereof, or any mash, wort, or wash, or other fermented liquid and the receptacle or container thereof, and any alcoholic beverage, together with all personal property used to facilitate the manufacture or production of the alcoholic beverage or to facilitate the violation of the alcoholic beverage control laws of this state or the United States, may be seized by the division or by any sheriff or deputy sheriff and shall be forfeited to the state.

(5) It shall be unlawful for any person to sell or otherwise dispose of raw materials or other substances knowing same are to be used in the distillation or manufacture of an alcoholic beverage unless such person receiving same, by purchase or otherwise, holds a license from the state authorizing the manufacture of such alcoholic beverage.

(6) Any vehicle, vessel, or aircraft used in the transportation or removal of or for the deposit or concealment of any illicit liquor still or stilling apparatus; any mash, wort, wash, or other fermented liquids capable of being distilled or manufactured into an alcoholic beverage; or any alcoholic beverage commonly known and referred to as “moonshine whiskey” shall be seized and may be forfeited as provided by the Florida Contraband Forfeiture Act. Any sheriff, deputy sheriff, employee of the division, or police officer may seize any of the vehicles, vessels, or conveyances, and the same may be forfeited as provided by law.

(7) The finding of any still, still piping, still apparatus, or still worm, or any piece or part thereof, or any mash, wort, or wash or other fermented liquids in the dwelling house or place of business, or so near thereto as to lead to the reasonable belief that they are within the possession, custody, or control of the occupants of the dwelling house or place of business, shall be prima facie evidence of a violation of this section by the occupants of the dwelling house or place of business.

(8) Any person violating any provisions of this section of the law commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 9, ch. 19301, 1939; CGL 1940 Supp. 4151(271q); s. 4, ch. 22669, 1945; s. 1, ch. 28073, 1953; s. 1, ch. 29804, 1955; s. 2, ch. 61-218; ss. 16, 35, ch. 69-106; s. 569, ch. 71-136; s. 2, ch. 72-230; s. 26, ch. 73-334; s. 6, ch. 74-385; s. 24, ch. 79-11; s. 6, ch. 80-68; s. 865, ch. 97-103; s. 25, ch. 2019-167.

**562.28 Possession of beverages in fraud of Beverage Law.**—All beverages on which taxes are imposed by the Beverage Law or would be imposed if such beverages were manufactured in or brought into this state in accordance with the regulatory provisions of such law, which shall be found in the possession, or custody, or within the control of any person, for the purpose of being sold or removed by her or him in fraud of the Beverage Law, or with design to evade payment of said taxes, may be seized by the division or any sheriff or deputy sheriff and shall be forfeited to the state.

**History.**—s. 10, ch. 19301, 1939; CGL 1940 Supp. 4151(271r); ss. 16, 35, ch. 69-106; s. 2, ch. 72-230; s. 866, ch. 97-103.

**562.29 Raw materials and personal property; seizure and forfeiture.**—All raw materials found in the possession of any person intending to manufacture the same into a beverage subject to tax under the Beverage Law, or into a beverage which would be subject to tax under such law if manufactured in accordance with the regulatory provisions thereof, for the purpose of fraudulently selling such manufactured beverage, or with the

design to evade the payment of said tax; and all tools, implements, instruments, and personal property whatsoever, in the place or building or within any yard or enclosure or in the vicinity where such beverage or raw materials are found, may also be seized by the division or any sheriff or deputy sheriff, and shall be forfeited as aforesaid.

**History.**—s. 10, ch. 19301, 1939; CGL 1940 Supp. 4151(271r); ss. 16, 35, ch. 69-106; s. 2, ch. 72-230.

**562.30 Possession of beverage prima facie evidence; exception.**—The possession by any person, except a licensed manufacturer or distributor, a state bonded warehouse, or a common carrier, of any beverage which is taxable under the Beverage Law, or which would be taxable thereunder if such beverage were manufactured in or brought into the state in accordance with the regulatory provisions thereof, and upon which the tax has not been paid, shall be prima facie evidence that such beverage has been manufactured, or is being sold, removed, or concealed with design to evade payment of such tax.

**History.**—s. 10, ch. 19301, 1939; CGL 1940 Supp. 4151(271r); s. 2, ch. 72-230.

**562.31 Possession of raw materials prima facie evidence; exception.**—The possession by any person, except a licensed manufacturer or distributor, a state bonded warehouse, or a common carrier, of any mash, wort, or wash, or any other raw materials for the manufacture of beverage subject to tax under the Beverage Law, or which would be taxable thereunder if such beverage were manufactured or brought into the state in accordance with the regulatory provisions of such law, shall be prima facie evidence that such person intends to manufacture the same into such beverage for the purpose of selling such beverage with design to evade the payment of such tax.

**History.**—s. 10, ch. 19301, 1939; CGL 1940 Supp. 4151(271r); s. 5, ch. 22669, 1945; s. 2, ch. 72-230.

**562.32 Moving or concealing beverage with intent to defraud state of tax; penalty.**—Every person who removes, deposits, or conceals, or is concerned in removing, depositing, or concealing any beverage for or in respect whereof any tax is imposed by the Beverage Law or would be imposed if such beverage were manufactured in or brought into this state in accordance with the regulatory provisions thereof, with intent to defraud the state of such tax or any part thereof, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**History.**—s. 11, ch. 19301, 1939; CGL 1940 Supp. 7648(27); s. 570, ch. 71-136; s. 2, ch. 72-230.

**562.33 Beverage and personal property; seizure and forfeiture.**—Whenever any beverage on which any tax is imposed by the Beverage Law or would be imposed if such beverage were manufactured in or brought into this state in accordance with the regulatory provisions thereof, or any materials, utensils, or vessels proper, or other personal property whatsoever, intended to be made use of for or in the manufacture of such beverage are removed, or are deposited or concealed in any place, with intent to defraud the state of such tax, or any part thereof, all such beverages and all such materials, utensils, vessels, or other personal property whatsoever, may be seized by the division or any sheriff or deputy sheriff and shall be forfeited to the state.

**History.**—s. 11, ch. 19301, 1939; CGL 1940 Supp. 4151(271s); ss. 16, 35, ch. 69-106; s. 2, ch. 72-230.

**562.34 Containers; seizure and forfeiture.**—

(1) It shall be unlawful for any person to have in her or his possession, custody, or control any cans, jugs, jars, bottles, vessels, or any other type of containers which are being used, are intended to be used, or are known by the possessor to have been used to bottle or package alcoholic beverages; however, this provision shall not apply to any person properly licensed to bottle or package such alcoholic beverages or to any person intending to dispose of such containers to a person, firm, or corporation properly licensed to bottle or package such alcoholic beverages.

(2) It shall be unlawful for any person to sell or otherwise dispose of any cans, jugs, jars, bottles, vessels, or any other type of containers, knowing that such are to be used in the bottling or packaging of alcoholic beverages, unless the person receiving same, by purchase or otherwise, shall hold a license to manufacture or distribute such alcoholic beverages.

(3) It shall be unlawful for any person to transport any cans, jugs, jars, bottles, vessels, or any other type of containers intended to be used to bottle or package alcoholic beverages; however, this section shall not apply to

any firm or corporation holding a license to manufacture or distribute such alcoholic beverages and shall not apply to any person transporting such containers to any person, firm, or corporation holding a license to manufacture or distribute such alcoholic beverages.

(4) Any person violating any provision of this section of the law shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any such cans, jugs, jars, bottles, vessels, or any other type of container found in the possession, custody, or control of any person which are being used or are intended to be used or to be disposed of in violation of this section shall be seized by the division, sheriffs, or deputy sheriffs and shall be forfeited to the state.

(6) Notwithstanding the provisions of this section, it shall not be unlawful for any person to have in her or his possession, custody, or control a growler as described in s. 563.06(7), either full or empty, or to transport such growler.

**History.**—s. 11, ch. 19301, 1939; CGL 1940 Supp. 4151(271s); s. 3, ch. 61-218; ss. 16, 35, ch. 69-106; s. 571, ch. 71-136; s. 2, ch. 72-230; s. 25, ch. 79-11; s. 5, ch. 86-269; s. 867, ch. 97-103; s. 7, ch. 2015-12.

**562.35 Conveyance; seizure and forfeiture.**—Every vehicle, vessel, or aircraft used in the transportation or removal of, or for the deposit or concealment of, any mash, wort, or wash or other fermented liquids, any moonshine whiskey, or any raw materials used to manufacture illicit liquors, utensils, or stills and stilling apparatus shall be seized and may be forfeited as provided by the Florida Contraband Forfeiture Act.

**History.**—s. 11, ch. 19301, 1939; CGL 1940 Supp. 4151(271s); s. 2, ch. 28073, 1953; s. 2, ch. 72-230; s. 7, ch. 74-385; s. 7, ch. 80-68.

**562.36 Beverage on conveyance prima facie evidence; proviso.**—The presence, in any conveyance or place, of any beverage upon which a tax is imposed by the Beverage Law or would be imposed if such beverage were manufactured in or brought into this state in accordance with the regulatory provisions thereof, and upon which the tax has not been paid, shall be prima facie evidence that such beverage is being removed, deposited, or concealed with intent to defraud the state of such tax; provided, that the provisions of this section shall not apply to any conveyance or any place owned by, or in the possession, custody, or control of a licensed manufacturer or distributor, a state bonded warehouse, or a common carrier.

**History.**—s. 11, ch. 19301, 1939; CGL 1940 Supp. 4151(271s); s. 2, ch. 72-230.

**562.38 Report of seizures.**—Any sheriff, deputy sheriff, or police officer, upon the seizure of any property under this act, shall promptly report such seizure to the division or its representative, together with a description of all such property seized so that the state may be kept informed as to the size and magnitude of the illicit liquor business.

**History.**—s. 12, ch. 19301, 1939; CGL 1940 Supp. 4151(271u); s. 25, ch. 25359, 1949; s. 3, ch. 28073, 1953; ss. 16, 35, ch. 69-106; s. 2, ch. 72-230; s. 26, ch. 73-334; s. 27, ch. 79-11.

**562.408 Exercise of police power.**—It is deemed by the Legislature that this law is necessary for the more efficient and proper enforcement of the statutes and laws of this state prohibiting the manufacture of, or traffic in, illicit moonshine whiskey and a lawful exercise of the police power of the state for the protection of the public welfare, health, safety, and morals of the people of the state. All the provisions of this law shall be liberally construed for the accomplishment of these purposes.

**History.**—s. 13, ch. 28073, 1953; s. 2, ch. 72-230.

**562.41 Searches; penalty.**—

(1) Any authorized employee of the division, any sheriff, any deputy sheriff, or any police officer may make searches of persons, places, and conveyances of any kind whatsoever in accordance with the laws of this state for the purpose of determining whether or not the provisions of the Beverage Law are being violated.

(2) Any authorized employee of the division, any sheriff, any deputy sheriff, or any police officer may enter in the daytime any building or place where any beverages subject to tax under the Beverage Law or which would be subject to tax thereunder if such beverages were manufactured in or brought into this state in accordance with the regulatory provisions thereof, or any alcoholic beverages, are manufactured, produced, or kept, so far as may be

necessary, for the purpose of examining said beverages. When such premises are open at night, such officers may enter them while so open, in the performance of their official duties.

(3) Any owner of such premises or person having the agency, superintendency, or possession of same, who refuses to admit such officer or to suffer her or him to examine such beverages, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any person who shall forcibly obstruct or hinder the director, any division employee, any sheriff, any deputy sheriff, or any police officer in the execution of any power or authority vested in her or him by law, or who shall forcibly rescue or cause to be rescued any property if the same shall have been seized by such officer, or shall attempt or endeavor to do so, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Licensees, by the acceptance of their license, agree that their places of business shall always be subject to be inspected and searched without search warrants by the authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or at any other time such premises are occupied by the licensee or other persons.

**History.**—s. 15, ch. 19301, 1939; CGL 1940 Supp. 4151(271x), 7648(28), (29); ss. 1, 2, ch. 57-327; ss. 16, 35, ch. 69-106; s. 572, ch. 71-136; s. 2, ch. 72-230; s. 28, ch. 79-11; s. 6, ch. 86-269; s. 868, ch. 97-103.

**562.42 Destruction of forfeited property.**—In case of the seizure of any intoxicating beverage, still, doubler, worm, worm tub, still piping, still apparatus or any piece or part thereof, any mash, wort, or wash or other fermented liquids and any containers therefor, for any offense involving forfeiture of the same, where such apparatus shall be of less than \$1,000 in value and it shall be impracticable to remove the same to a place of safe storage from the place where seized, the seizing officer is authorized to destroy the same only so far as to prevent the use thereof, or any part thereof, for the purpose for which it was intended. Such destruction shall be in the presence of at least one credible witness and such witness shall unite with the said officer in a duly sworn report of said seizure and such destruction, to be made to the division, in which report they shall set forth the grounds of the claim or forfeiture and the reasons for such seizure and destruction and an estimate of the fair value of the apparatus destroyed and also of the materials remaining after the destruction and a statement that, from facts within their own knowledge, they have no doubt whatever that such apparatus was set up for use in the unlawful manufacture of intoxicating beverages and that it was impracticable to remove the same to a place of safe storage; provided, that not more than 1 pint of any such intoxicating beverage shall be preserved by the seizing officer to be used as evidence against anyone accused of violating the provisions of the Beverage Law, and such pint of intoxicating beverage is hereby declared to be sufficient of such intoxicating beverage upon which to base a conviction of a violation of the Beverage Law.

**History.**—s. 16, ch. 19301, 1939; CGL 1940 Supp. 4151(271y); ss. 16, 35, ch. 69-106; s. 2, ch. 72-230.

**562.44 Donation of forfeited beverages or raw materials to state institutions; sale of forfeited beverages.**—Any alcoholic beverage or raw materials used for the manufacture of alcoholic beverages that may be seized and forfeited under any of the provisions of the Beverage Law may, with the approval and consent of the Department of Business and Professional Regulation, be donated to any state-operated or charitable institution that may have a legitimate use therefor in the operation of such institution, or the division may sell such beverage so seized and forfeited to any licensed wholesaler in the state, upon the condition that all federal and state taxes that may be due thereon shall be paid, that such sale shall be made only upon submission by said division of a request for bids to at least five wholesale dealers in the state, and that such sale shall be made to the highest and best bidder therefor. However, if no satisfactory bid from a wholesaler is received, the division may then reject all bids and sell such beverage so seized and forfeited to any retailer, licensed in this state to sell such beverage, upon the condition that all federal and state taxes that may be due thereon shall have been paid, that such sale shall be made only upon submission by said division of a request for bids to at least five retail dealers in the state and that such sale shall be to the highest and best bidder therefor. All moneys received from such sales shall be paid by the division to the Chief Financial Officer for the account of the beverage fund and shall be subject to disbursement in accordance with the law relating thereto.

**History.**—s. 18, ch. 19301, 1939; CGL 1940 Supp. 4151(271aa); s. 8, ch. 22669, 1945; s. 1, ch. 57-327; ss. 16, 35, ch. 69-106; s. 2, ch. 72-230; s. 31, ch. 79-4; s. 220, ch. 94-218; s. 732, ch. 2003-261.

**562.45 Penalties for violating Beverage Law; local ordinances; prohibiting regulation of certain activities or business transactions; requiring nondiscriminatory treatment; providing exceptions.—**

(1) Any person willfully and knowingly making any false entries in any records required under the Beverage Law or willfully violating any of the provisions of the Beverage Law, concerning the excise tax herein provided for shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. It is unlawful for any person to violate any provision of the Beverage Law, and any person who violates any provision of the Beverage Law for which no penalty has been provided shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; provided, that any person who shall have been convicted of a violation of any provision of the Beverage Law and shall thereafter be convicted of a further violation of the Beverage Law, shall, upon conviction of said further offense, be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) Nothing contained in the Beverage Law may be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the hours of business and location of place of business, and prescribing sanitary regulations therefor, of any licensee under the Beverage Law within the county or corporate limits of such municipality. However, except for premises licensed on or before July 1, 1999, and except for locations licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509, a location for on-premises consumption of alcoholic beverages may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location as promoting the public health, safety, and general welfare of the community under proceedings as provided in s. 125.66(5), for counties, and s. 166.041(3)(c), for municipalities. This restriction may not, however, be construed to prohibit the issuance of temporary permits to certain nonprofit organizations as provided for in s. 561.422. The division may not issue a change in the series of a license or approve a change of a licensee's location unless the licensee provides documentation of proper zoning from the appropriate county or municipal zoning authorities.

(b) Nothing in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the type of entertainment and conduct permitted in any establishment licensed under the Beverage Law to sell alcoholic beverages for consumption on the premises, or any bottle club licensed under s. 561.14, which is located within such county or municipality.

(c) A county or municipality may not enact any ordinance that regulates or prohibits those activities or business transactions of a licensee regulated by the Division of Alcoholic Beverages and Tobacco under the Beverage Law. Except as otherwise provided in the Beverage Law, a local government, when enacting ordinances designed to promote and protect the general health, safety, and welfare of the public, shall treat a licensee in a nondiscriminatory manner and in a manner that is consistent with the manner of treatment of any other lawful business transacted in this state. Nothing in this section shall be construed to affect or impair the enactment or enforcement by a county or municipality of any zoning, land development or comprehensive plan regulation or other ordinance authorized under ss. 1, 2, and 5, Art. VIII of the State Constitution.

**History.**—s. 15, ch. 16774, 1935; s. 3, ch. 19301, 1939; CGL 1940 Supp. 4151(240), 7648(6); s. 4, ch. 29964, 1955; s. 1, ch. 57-327; s. 573, ch. 71-136; s. 2, ch. 72-230; s. 1, ch. 87-365; s. 24, ch. 91-60; s. 4, ch. 97-165; s. 2, ch. 99-156; s. 128, ch. 2014-17; s. 13, ch. 2023-309.

**562.451 Moonshine whiskey; ownership, possession, or control prohibited; penalties; rule of evidence.—**

(1) Any person who owns or has in her or his possession or under her or his control less than 1 gallon of liquor, as defined in the Beverage Law, which was not made or manufactured in accordance with the laws in effect at the time when and place where the same was made or manufactured commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who owns or has in her or his possession or under her or his control 1 gallon or more of liquor, as defined in the Beverage Law, which was not made or manufactured in accordance with the laws in effect at the

time when and place where the same was made or manufactured commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) In any prosecution under this section, proof that the liquor involved is what is commonly known as moonshine whiskey shall be prima facie evidence that the same was not made or manufactured in accordance with the laws in effect at the time when and place where the same was made or manufactured.

**History.**—s. 9, ch. 22669, 1945; s. 17, ch. 23746, 1947; s. 5, ch. 29964, 1955; s. 1, ch. 59-435; s. 574, ch. 71-136; s. 2, ch. 72-230; s. 869, ch. 97-103; s. 26, ch. 2019-167.

**562.452 Curb service of intoxicating liquor prohibited.**—It is unlawful for any person to sell or serve, by the drink, any intoxicating liquor, other than malt beverages of legal alcoholic content, except within the building and licensed premises as provided in ss. 562.06 and 565.02(1)(g) which is the address of the person holding a license for the sale of such intoxicating liquor. However, nothing in this section shall be construed to permit the practice of curbside or drive-in service in connection with such intoxicating liquors when sold by the drink or the sale of intoxicating liquors in parking lots; provided, however, that nothing in this section contained shall be construed to prevent the regular delivery by licensed dealers of sealed containers containing such intoxicating liquors.

**History.**—s. 1, ch. 19437, 1939; CGL 1940 Supp. 7648(30); s. 7, ch. 22858, 1945; s. 2, ch. 72-230; s. 1, ch. 75-278; s. 8, ch. 90-17.

**Note.**—Former s. 569.01.

**562.453 Curb drinking of intoxicating liquor prohibited.**—It is unlawful for any person to consume any intoxicating liquor, except malt beverages of legal alcoholic content, at curbside or drive-in stands, except within the building which is the address of the person holding a license for the sale of such intoxicating liquors.

**History.**—s. 2, ch. 19437, 1939; CGL 1940 Supp. 7648(31); s. 2, ch. 72-230.

**Note.**—Former s. 569.02.

**562.454 Vendors to be closed in time of riot.**—

(1) Whenever any riot or gathering of a mob occurs in any area of this state, all persons in the area who sell alcoholic beverages shall, upon being so ordered by proclamation as provided herein, immediately stop the sale of alcoholic beverages and immediately close all barrooms, saloons, shops, or other places where any other alcoholic beverages are sold and keep them closed and refrain from selling, bartering, lending, or giving away any alcoholic beverages until such time as public notice shall be given by the sheriff of the county or the mayor of any city, town, or village where any riot or mob action may have occurred that such places may be opened and the sale of alcoholic beverages resumed.

(2) Whenever any riot has occurred or mob has gathered, or there is a reasonable cause to apprehend the occurrence of such events in any area of the state, the mayor or county commission shall immediately issue a proclamation ordering the suspension of sale of alcoholic beverages and the closing of the places described in subsection (1) until such time as the public peace and safety no longer requires such restrictions.

(3) None of the provisions of this section shall require the closing of any store, shop, restaurant, gasoline service station, or other place or establishment in which alcoholic beverages are sold by the drink for consumption on the premises or as items in a stock of varied merchandise for sale to the general public, but all sales of such alcoholic beverages shall be suspended, and all bars, cocktail lounges, and other areas maintained for the sale or service of such beverages in such stores, shops, restaurants, gasoline service stations, and other such places or establishments shall be closed during any riot, gathering of a mob, or other occurrence contemplated in subsections (1) and (2).

(4) Any person who knowingly violates any of the provisions of this section or the proclamation or permits any person in his or her employ to do so or connives with any other person to evade the terms of such proclamation shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—ss. 1, 2, ch. 4033, 1891; GS 3244, 3245; CGL 1936 Supp. 7179(1), (2); ss. 581, 582, ch. 71-136; s. 2, ch. 72-230; s. 870, ch. 97-103.

**Note.**—Former ss. 569.08 and 569.09.



**562.455 Adulterating liquor; penalty.**—Whoever adulterates, for the purpose of sale, any liquor, used or intended for drink, with cocculus indicus, vitriol, opium, alum, capsicum, copperas, laurel water, logwood, brazil wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health, and whoever knowingly sells any liquor so adulterated, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**History.**—s. 4, ch. 1637, 1868; RS 2664; GS 3593; RGS 5522; CGL 7687; s. 583, ch. 71-136; s. 2, ch. 72-230; s. 20, ch. 2021-135.

**Note.**—Former s. 569.10.

**562.46 Legal remedies not impaired.**—It is the declared legislative intention that no provision or provisions of the Beverage Law shall in any manner limit, modify, or preclude any person from instituting legal proceedings in courts of competent jurisdiction for the adjudication of any rights that such person may have under the Federal and State Constitutions and under laws now existing, or laws which may be hereinafter enacted; further, an action involving a contractual dispute between a licensed distributor and its registered primary American source of supply, as defined in s. 564.045 or s. 565.095, may be filed in the courts of this state.

**History.**—s. 17, 16774, 1935; CGL 1936 Supp. 4151(243); s. 2, ch. 72-230; s. 7, ch. 85-161.

**562.47 Rules of evidence; Beverage Law.**—In all prosecutions for violations of the Beverage Law:

(1) Proof that the liquor in question was and is known as whiskey, moonshine whiskey, shine, rum, gin, or brandy or by another similar name or names shall be prima facie evidence that such liquor is intoxicating and contains more than 4.007 percent of alcohol by volume and that same is intoxicating.

(2) Proof that the beverage in question was contained in a container labeled as “beer,” “ale,” “malt liquor,” “malt beverage,” “wine,” or “distilled spirits” or with other similar name; and which bears the manufacturer’s insignia, name, or trademark is prima facie evidence that such beverage is an alcoholic beverage as defined in s. 561.01.

(3) Any person or persons who by experience in the past in the handling or use of intoxicating liquors, or who by taste, smell, or the drinking of such liquors has knowledge as to the intoxicating nature thereof, may testify as to his or her opinion whether such beverage or liquor is or is not intoxicating, and a verdict based upon such testimony shall be valid.

**History.**—s. 1, ch. 20744, 1941; s. 2, ch. 72-230; s. 1, ch. 85-44; s. 7, ch. 86-269; s. 25, ch. 91-60; s. 871, ch. 97-103.

**562.48 Minors patronizing, visiting, or loitering in a dance hall.**—Any person operating any dance hall in connection with the operation of any place of business where any alcoholic beverage is sold who shall knowingly permit or allow any person under the age of 18 years to patronize, visit, or loiter in any such dance hall or place of business, unless such minor is attended by one or both of his or her parents or by his or her natural guardian, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 1, ch. 20838, 1941; s. 1, ch. 28291, 1953; s. 575, ch. 71-136; s. 2, ch. 72-230.

**562.50 Habitual drunkards; furnishing intoxicants to, after notice.**—Any person who shall sell, give away, dispose of, exchange, or barter any alcoholic beverage, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever under any name, label, or brand, which produces intoxication, to any person habitually addicted to the use of any or all such intoxicating liquors, after having been given written notice by wife, husband, father, mother, sister, brother, child, or nearest relative that said person so addicted is an habitual drunkard and that the use of intoxicating drink or drinks is working an injury to the person using said liquors, or to the person giving said written notice, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 1, ch. 22633, 1945; s. 576, ch. 71-136; s. 2, ch. 72-230.

**562.51 Retail alcoholic beverage establishments; rights as private enterprise.**—A licensed retail alcoholic beverage establishment open to the public is a private enterprise and:

(1) May refuse service to any person who is objectionable or undesirable to the licensee, but such refusal of service shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, or physical

handicap.

(2)(a) May not refuse service to any person solely because the person is not purchasing alcoholic beverages if that person is the designated driver for one or more persons who are purchasing alcoholic beverages at the establishment.

(b) This subsection does not excuse a retail alcoholic beverage establishment from complying with any applicable municipal or county ordinance regulating the presence of persons under 21 years of age on the premises of any such establishment.

*History.*—s. 4, ch. 85-285; s. 1, ch. 2007-135.

**562.61 Sale, offer for sale, purchase, or use of alcohol vaporizing devices prohibited.—**

(1) For purposes of this section, the term “alcohol vaporizing device” means any device, machine, or process which mixes spirits, liquor, or other alcohol products with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

(2) A person may not sell, offer for sale, purchase, or use an alcohol vaporizing device.

(3)(a) Any person who violates this section by selling or offering for sale an alcohol vaporizing device commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates this section by selling or offering for sale an alcohol vaporizing device after having been previously convicted of such an offense within the past 5 years commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates this section by purchasing or using an alcohol vaporizing device commits a noncriminal violation with a fine of \$250.

(4) This section does not apply to the administration or prescription of a product that contains alcohol by a health care practitioner who is licensed under the laws of this state or another state.

*History.*—s. 1, ch. 2006-128.