

## CHAPTER 568

## INTOXICATING LIQUORS IN COUNTIES WHERE PROHIBITED

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**568.01 Alcoholic content of intoxicating liquors.**—For the purposes of this chapter, all liquors, wines, or beer containing more than 6.243 percent of alcohol by volume shall be deemed and held to be intoxicating liquors, wines, or beer and subject to the provisions of this chapter.

**History.**—s. 5, ch. 18016, 1937; CGL 1940 Supp. 7648(14); s. 1, ch. 84-299; s. 18, ch. 86-269.

**568.02 Selling intoxicating liquors in counties where prohibited.**—It is unlawful for anyone to sell, or cause to be sold, any intoxicating liquors, wines, or beer in any county that has voted against the sale of intoxicating liquors, wines, or beer.

**History.**—s. 1, ch. 18016, 1937; CGL 1940 Supp. 7648(10).

**568.03 Possessing intoxicating liquors in counties where prohibited with intent to sell.**—It is unlawful for anyone to keep, or possess, intoxicating liquors, wines, or beer in any county that has voted against the sale of such intoxicating liquors, wines, or beer with intent to sell or dispose of them unlawfully.

**History.**—s. 2, ch. 18016, 1937; CGL 1940 Supp. 7648(11).

**568.04 Maintaining place of business for sale of liquors in counties where prohibited.**—It is unlawful for anyone to keep or maintain a place where intoxicating liquors, wines, or beer are sold in any county that has voted against the sale of intoxicating liquors, wines or beer.

**History.**—s. 3, ch. 18016, 1937; CGL 1940 Supp. 7648(12).

**568.05 Penalty.**—Any person who sells, or causes to be sold, any intoxicating liquors, wines, or beer in any county that has voted against the sale of intoxicating liquors, wines, or beer, or who keeps or possesses in any such county any intoxicating liquors, wines, or beer with intent to sell or dispose of same unlawfully, or who keeps or maintains in any such county a place where intoxicating liquors, wines, or beer are sold, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 4, ch. 18016, 1937; CGL 1940 Supp. 7648(13); s. 578, ch. 71-136.

**568.06 Proof necessary to convict.**—In any trial of any person for violation of s. 568.02, it shall not be necessary for the prosecution to prove that the accused had any interest in the intoxicating liquors, wines, or beer delivered or sold by him, or any interest in the money received by the accused for such intoxicating liquors, wines, or beer delivered by him, but proof of the delivery of intoxicating liquors, wines, or beer by the accused and the receipt of money therefor by him, shall be prima facie evidence of the ownership of said intoxicating beverages by the accused and proof of the sale of a single quantity of intoxicating liquors, wines, or beer by such person shall be sufficient evidence upon which to base a conviction for violation of s. 568.02.

**History.**—s. 6, ch. 18016, 1937; CGL 1940 Supp. 7648(15).

**568.07 Name sufficient proof; competency of witness.**—

(1) In every prosecution for a violation of this chapter, proof that the liquor in question was and is known as whiskey, moonshine whiskey, shine, rum, gin, or brandy or by any other similar name or names shall be prima facie evidence that such liquor is intoxicating and contains more than 6.243 percent of alcohol by volume and that such content is intoxicating. Any person 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 of such liquors may testify as to this opinion, whether such beverage or liquor is or is not intoxicating; and a verdict based upon such testimony shall be valid.

(2) The alcoholic content of any liquor, wine, or beer, or other beverage, may be shown by hydrometer or gravity test made in or away from the presence of the jury by any person who has knowledge of the uses of such instruments, but the production of such evidence shall be optional. The alcoholic content of any liquor or beverage, or compound, which is the subject of any inquiry in any proceedings or prosecution may also be shown by chemical analysis or any other analysis made by and certified by any competent chemist. The sample analyzed may be identified by the sworn testimony of any peace officer or prosecuting officer, that he personally delivered to such chemist such sample for analysis and that it was personally taken by him from the receptacle containing the beverage, drink, or alcoholic liquor or compound which is the subject of inquiry.

(3) The mode of proof herein provided shall be considered cumulative and not exclusive.

**History.**—s. 7, ch. 18016, 1937; CGL 1940 Supp. 7648(16); s. 3, ch. 84-299; s. 19, ch. 86-269; s. 49, ch. 91-220, s. 100, ch. 92-291.

**568.08 Person required to testify; exemption from prosecution.**—No person shall, upon any investigation before a grand jury or state attorney for an alleged violation of any of the provisions of this chapter, or before any court upon the trial of any person, association of persons, or corporation, charged with the violation of any of the provisions of this chapter herein made a criminal offense, refuse to testify or give evidence, or produce

any document, record, book, papers, or any other personal property of any kind or description, upon the ground that by so doing he may thereby convict himself of crime, or give evidence against himself, or expose himself to criminal prosecution, penalty or forfeiture; and any person who shall so testify or give such evidence, or produce any such document, record, book, paper, or any other personal property of any kind or description, shall not be prosecuted or held liable for any penalty or forfeiture for or on account of any matter or thing concerning which he may so testify, or give evidence, or produce any such document, record, book, paper or any other personal property of any kind or description, and the same shall not be given in evidence or used against such person in anywise or in any manner in any prosecution or other proceeding in any of the courts of this state, or otherwise; provided, that nothing in this section contained shall protect any person against prosecution for perjury or false swearing.

**History.**—s. 8, ch. 18016, 1937; CGL 1940 Supp. 7648(17); s. 26, ch. 73-334.

**568.09 Holding federal license or tax stamp prima facie evidence.**—The holding, owning, having in possession, or paying for a license or tax stamp issued by the internal revenue authorities of the United States showing the payment of a tax as a dealer in intoxicating liquors, wines, or beer, by the holder thereof to the United States Government shall be held in all the courts of this state as prima facie evidence against the holder thereof in prosecution of such holder for violation of this chapter and upon proof being made by the certificate of the collector of internal revenue, as provided for by the federal statute, in cases where the proper prosecuting officers shall produce said certificate or certified copy, the grand jury may indict the holder of such license or tax stamp or the proper prosecuting officer may file information against the holder of such license or tax stamp without further proof, charging such holder with the violation of this chapter, and upon the trial of persons charged with the violation of this chapter, upon information or indictment proof of the owning, holding, or possession of such license or tax stamp by the defendant may be made by two witnesses who have seen such license or tax stamp in the place of business or the holder thereof, or by the production of the original tax stamp or license with proof that said license or tax stamp is the property of the defendant by one or more witnesses, or by production by the prosecuting officer of a certified copy of said license, tax stamp or certificate of the Collector of Internal Revenue of the United States; and proof having been made as provided in this section, it shall be sufficient evidence, without explanation, to convict.

**History.**—s. 9, ch. 18016, 1937; CGL 1940 Supp. 7648(18).

**568.10 Confiscation of liquors.**—Upon the arrest of any person charged with a violation of any of the provisions of this chapter, the arresting officer shall take into his custody all of the intoxicating liquors, wines, or beer found in the possession, custody or control of the person arrested, and safely keep and preserve the same and have it forthcoming at any investigation, prosecution or other proceeding for the violation of any of the

provisions of this chapter, and for the destruction of same as is in this section provided. Upon the conviction of the person arrested for the violation of any provision of this chapter, the judge of the court trying the case, after notice to the person convicted and any other person who 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, division, or authorized municipality a written order adjudging and declaring such intoxicating liquors, wines, or beer forfeited and directing the sheriff, division, or authorized municipality to sell the liquors, wines, or beer to any licensed wholesaler in the state upon the condition that the intoxicating liquors, wines, and beer must be first inspected by an employee of the division to ascertain that all state taxes applicable have been paid. Sale shall be made, however, only upon submission by the sheriff, division, or authorized municipality of a request for bids to at least five wholesalers in the state, and the sale shall be made to the highest and best bidder; provided, however, if in the opinion of the sheriff, division, or authorized municipality no satisfactory bid from a wholesaler is received, bids may then be rejected and the intoxicating liquors, wines, or beer so seized and forfeited may be sold to any retailer licensed in this state to sell such beverages provided that the sale shall be made only upon submission by the sheriff, division, or authorized municipality of a request for bids to at least five retail dealers in the state and that the sale shall be made to the highest and best bidder therefor; the order shall further provide, in the event any forfeited liquors, wines, or beer cannot be sold, that the sheriff, division, or authorized municipality shall immediately destroy same or that the sheriff or authorized municipality shall deliver same to the division for the disposition as provided in s. 562.44. In the event that the liquors, wines, or beer are to be destroyed under the order, the destruction by the sheriff or authorized municipality shall be in the presence of the clerk of the circuit court of the county and at times, places and in the manner as the judge, in his order, directs.

**History.**—s. 10, ch. 18016, 1937; CGL 1940 Supp. 7648(19); s. 1, ch. 22024, 1943; s. 1, ch. 61-259; ss. 16, 35, ch. 69-106; s. 31, ch. 79-11.

**568.11 Right of property forfeited.**—The right of property in and to intoxicating liquors, wines, or beer sold or possessed by any person, association of persons, or corporation in violation of any of the provisions of this chapter is declared not to exist in any person, association of persons, or corporation and the same shall be forfeited.

**History.**—s. 11, ch. 18016, 1937; CGL 1940 Supp. 7648(20).

**568.12 Record of confiscation required.**—Any sheriff, who seizes intoxicating liquors, wines, or beer as provided for in this chapter, shall keep a permanent itemized record of all such liquors including a complete record of the destruction of such liquors, which record shall be verified by the signature of the sheriff in person, and such records shall be open to inspection at all times.

**History.**—s. 12, ch. 18016, 1937; CGL 1940 Supp. 7648(21).

**568.13 Form of information or indictment.**—

(1) An indictment or information framed substantially as follows shall be deemed sufficient in counties voting against the sale of intoxicating liquors, wines, or beer:

The grand jurors of the State of Florida, inquiring in and for the body of the County of \_\_\_\_\_, upon their oaths do present that \_\_\_\_\_, late of the County of \_\_\_\_\_, did, on, to wit: the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, in the said County of \_\_\_\_\_, State of Florida, unlawfully sell intoxicating liquors, (or intoxicating wines or intoxicating beer as the case may be), which said county had voted against the sale of intoxicating liquors, wines, or beer, contrary to the statute made and provided and against the peace and dignity of the State of Florida.

(2) Said form of indictment or information may also be used in charging violation of ss. 568.03 and 568.04.

**History.**—s. 13, ch. 18016, 1937; CGL 1940 Supp. 7648(22).

**568.14 Division vested with enforcing powers.**— For the purpose of enforcing the provisions of this chapter the division shall exercise and perform all powers and duties vested in the several sheriffs and their deputies in the state under the provisions of this chapter.

**History.**—s. 13A, ch. 18016, 1937; CGL 1940 Supp. 7648(23); ss. 16, 35, ch. 69-106; s. 32, ch. 79-11.