(3) Adopt reasonable rules to implement, interpret, or make specific the provisions of this chapter, which rules shall have the force and effect of law.
(4) Establish, by rule, standards of weight, measure, or count and reasonable standards of fill for any commodity in package form, as necessary.
(5) Make, by rule, any exemptions from the provisions of this chapter when appropriate to the maintenance of good commercial practices within this state.
(6) Conduct investigations necessary to ensure compliance with this chapter.
(7) Delegate to appropriate personnel all duties and responsibilities necessary for the proper administration of this chapter.
(8) Test annually the standards of weight and measure used by any city or county and approve the same when found to be correct and reject same when found to be incorrect.
(9) Inspect and test all weights and measures kept or offered or exposed for sale.
(10) Inspect and test, to ascertain if they are correct, all weights and measures commercially used:

(a) In determining the weight, measure, or count of commodities or things sold or offered or exposed for sale, on the basis of weight, measure, or count; or
(b) In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

In compliance with rules of the department, tests may be made on representative samples of such devices, and the lots of which samples are representative shall be held to be correct or incorrect on the basis of the results of the inspection and tests of such samples.
(11) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which funds are appropriated by the legislature of this state.
(12) Approve for use, and mark, such weights and measures as it finds to be correct, and reject, and mark as rejected, such weights and measures as it finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within a reasonable time, or if used or disposed of in a manner not specifically authorized. The department shall condemn, and may seize, weights and measures found to be incorrect that are not capable of being made correct.
(13) Weigh, measure, or inspect packaged commodities kept or offered or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept or offered or exposed for sale in accordance with this chapter or the rules adopted pursuant thereto. In carrying out the provisions of this subsection, the department may employ recognized sampling procedures such as are designated in National Bureau of Standards, Handbook 67, "Checking Prepackaged Commodities."
(14) Prescribe, by rule, the appropriate term or unit of weight or measure to be used, whenever it determines in the case of a specific commodity that an existing practice of declaring net quantity of contents by weight, measure, numerical count, or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion.

History.—§1, ch. 72:01.

531.42 Special police powers.—With respect to the enforcement of this chapter and rules pursuant thereto, the department is:
(1) Empowered to seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered or exposed for sale, or sold in violation of the provisions of this chapter or rules adopted pursuant thereto.
(2) Authorized to enter any commercial premises during normal business hours for the purpose of performing its duties.
(a) In the event that such premises, or part thereof, are not open to the public, the representative of the department shall first present his credentials before seeking entry thereto.
(b) Any person refusing authorized entry is in violation of this chapter and shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.083. Such fine shall not be construed to be an elected alternative negating the authority to enter the establishment.
(c) In the event that such entry is denied, the representative of the department may apply for a search warrant from any person authorized to issue the same.

History.—§§1.1A, ch. 72:01.
531.421 Powers and duties of local officials. — Any weights and measures official appointed for a county or city may exercise, in cooperation with the state, the duties enumerated in §531.41 (9)-(13) and the powers enumerated in §531.42. These powers and duties shall extend to their respective jurisdictions, except that the jurisdiction of a county official shall not extend to any city for which a weights and measures official has been appointed.

History. — §1, ch. 72-101.

531.43 Misrepresentation of quantity. — No person shall sell or offer or expose for sale less than the quantity he represents, nor take any more than the quantity he represents, when, as buyer, he furnishes the weight or measure by means of which the quantity is determined.

History. — §1, ch. 72-101.

531.44 Misrepresentation of pricing. — No person shall misrepresent the price of any commodity or service sold or offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of a fraction shall be prominently displayed, and the numerals or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one half the height and width of, the numerals representing the whole cent.

History. — §1, ch. 72-101.

531.45 Method of sale. — Except as otherwise provided by rule of the department, commodities in liquid form shall be sold by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by area or volume measure, or by count, so long as the method of sale provides accurate quantity information.

History. — §1, ch. 72-101.

531.46 Bulk sale. — Bulk sales in excess of twenty dollars shall be accompanied by a delivery ticket containing the following information:

(1) The name and address of the vendor and purchaser;
(2) The date delivered;
(3) The net quantity delivered and the net quantity upon which the price is based, if this differs from the delivered quantity;
(4) The identity of commodity in the most descriptive terms commercially practicable including any quality representation made in connection with the sale; and
(5) The count of individually wrapped packages, if there are more than one of such packages.

History. — §1, ch. 72-101.

531.47 Information required on packages. — Except as otherwise provided in this chapter or by rules adopted pursuant thereto, any package introduced in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

(1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container.
(2) The net quantity of contents in terms of weight, measure, or count.
(3) The name and place of business of the manufacturer, packer, or distributor, in the case of any package kept or offered or exposed for sale or sold in any place other than on the premises where packed.

History. — §1, ch. 72-101.

531.48 Declarations of unit price on random packages. — In addition to the declarations required by §531.47, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

History. — §1, ch. 72-101.

531.49 Advertising packages for sale. — Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. When a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

History. — §1, ch. 72-101.

531.50 Offenses and penalties. —

(1) Any person who willfully and knowingly violates the provisions enumerated in subsection (2) or any provision of this chapter or rules adopted pursuant thereto for which a specific penalty has not been prescribed shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083. Upon a subsequent conviction, he shall be guilty of a misdemeanor of the first degree, punishable as provided in §775.082 or §775.083.

(2) No person shall:
(a) Use, or have in possession for use, in commerce any weight or measure not approved or corrected as provided in §531.41(12).
(b) Use or dispose of any rejected or condemned weight or measure without specific authorization from the rejecting authority.
(c) Remove any mark of rejection from a rejected weight or measure without specific authorization from the rejecting authority.

History. — §§1. 1A, ch. 72-101.
531.51 Injunction.—The department is authorized, without bond, to apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provision of this chapter.
History.—§1, ch. 72-101.

531.52 Presumptive evidence.—Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place.
History.—§1, ch. 72-101.

531.53 Regulations to be unaffected by repeal of prior enabling statute.—The enactment of this chapter or any of its provisions shall not affect any rule adopted pursuant to the authority of any earlier enabling statute unless inconsistent with this chapter or modified or revoked by rule of the department.
History.—§1, ch. 72-101.

531.54 Salaries and expenses of enforcement.—All expenses incident to, and incurred in, the administration and enforcement of this chapter, including the salaries and expenses of such persons as the department shall designate or employ as inspectors for that purpose, shall be paid from the general inspection trust fund of the state in the same manner as other state salaries and expenses are paid.
History.—§1, ch. 72-101.
532.01 Payment by check, draft or other order for payment.

Any order, check, draft, note, memorandum, or other acknowledgment of indebtedness issued in payment of wages or salary due or to become due must be negotiable and payable in cash, on demand, without discount, at some established place of business in the state, the name and address of which must appear on the instrument, and at the time of its issuance, and for a reasonable time thereafter, which must be at least thirty days, the maker or drawer must have sufficient funds or credit, arrangement, or understanding with the drawee for its payment.

History.—II, ch. 6914, 1915; RGS 2522; CGL 2944; II, ch. 18004, 1937; §1, ch. 71-324.

532.02 Payment by other device.

Any person issuing coupons, punch-outs, tickets, tokens or other device in lieu of cash as payment for labor, whether redeemable either wholly or partially in goods or merchandise, at his or any other place of business, shall, on demand of any legal holder thereof:

1. Be liable for the full face value thereof in current money of the United States, on or after the thirtieth day succeeding the day of issuance.

2. Be liable for payment in current money of the United States, notwithstanding any contrary stipulation or provision, which may be therein contained.

3. Be subject to suit brought thereon in any court of competent jurisdiction, upon failure to comply with either subsection (1) or subsection (2), wherein any legal holder's recovery shall include the full face value of any such device, with legal interest from demand and, in the court's discretion, 10 percent of said amount as attorney's fees in the same suit.

History.—§2, ch. 6914, 1915; RGS 2522; CGL 2945; §1, ch. 71-324.
CHAPTER 533
WASTE FROM MINES

533.01 Deposits for mine wastes, etc. - Any person engaged in the business of mining any mineral or subterranean product in this state, shall provide necessary places of deposit for the waste, wash or debris of any mine or mines operated by such person; and shall provide settling pools of sufficient capacity to prevent the escape of waste, wash or debris into any waters of the rivers and streams of the state, except as provided in §533.02.

History. - 11, ch. 6202, 1911; RGS 2446; 11, ch. 10181, 1925; CGL 3863, 3868. cf. §1.01(3), "Person" defined.

533.02 Escape of waste, wash and debris. - It is unlawful for any person to permit or allow the escape of waste, wash or debris from any mine or mines operated by such person into any of the streams and rivers of this state, but the escape of water slightly discolored shall not be construed as the escape of waste, wash and debris, nor shall the washing away of water, or debris, due to excessive rains or floods which are beyond the control of persons operating such mine or mines be within the meaning of this chapter.

History. - 12, ch. 6202, 1911; RGS 2447; 12, ch. 10181, 1925; CGL 3864, 3869.

533.03 On affidavit filed with county commissioners, county to institute suit to enjoin. - Upon the presentation to the board of county commissioners of any county of this state of an affidavit, signed by at least ten citizens, owning property in such county, which affidavit shall allege that some person conducting mining operations in this state, is not using due diligence to prevent the escape of waste or debris from any mine or mines, operated by such person, into any stream or river of this state, and that such waste or debris is escaping into a stream or river in the county in which the affiants reside, then the board of county commissioners shall immediately institute suit in the name of such county to enjoin such person from allowing waste or debris to escape. No prosecution for perjury shall be had on such affidavit. The joinder of any number of persons as defendants shall be no grounds of objections to the suit, and they may join parties defendants not named in the affidavit if necessary.

History. - 13, ch. 6202, 1911; RGS 2448; CGL 3865.

533.04 Venue in county wherein affidavit presented. - The cause of action shall be considered to arise in the county wherein the affidavit shall be presented to the board of county commissioners, and suit shall be commenced therein regardless of where the mine or mines from which the waste or debris is escaping are located.

History. - 14, ch. 6202, 1911; RGS 2449; CGL 3866.

533.05 Duty of state attorney; attorney's fee. - In the event the regular attorney of the board of county commissioners, represents any person engaged in mining in this state, the state attorney of the circuit in which the county bringing the suit is situated, shall conduct the suit, and if the injunction shall be granted, the county shall recover from the defendant or defendants such reasonable attorney's fee as shall be allowed by the court, which shall be paid to the attorney conducting the suit, in addition to the compensation regularly paid him.

History. - 15, ch. 6202, 1911; RGS 2450; CGL 3867.

533.06 Penalty for violation of §§533.01, 533.02. - Any person violating any of the provisions of §533.01 or §533.02 shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

History. - §3, ch. 10181, 1925; CGL 7833; §522, ch. 71-136.
534.011 Duties of department.—The inspection and protection of livestock in the state are hereby placed under the jurisdiction of the department of agriculture and consumer services, herein called the department.

History—c. 65-357; §14, 35, ch. 69-106.

Note.—Similar provisions in former §534.01.

534.021 Recording of marks and brands.—The department shall be the recorder of livestock marks and brands and such marks and brands shall not be recorded elsewhere in the state. Any livestock owner who uses a mark or brand to identify his livestock must register such mark or brand by applying to the department files and registration. The application shall be made on a form prescribed by the department and shall be accompanied by a facsimile of the brand applied for and a statement of the county or counties in the state that applicant has or expects to have livestock bearing the mark or brand to be recorded. The department shall, upon its satisfaction that the application meets the requirements of this chapter, record such mark or brand. If an application be made to record a mark or brand previously recorded, the department shall determine whether the county or counties in which the mark or brand will be used is near enough to another county or other counties in which the previously recorded mark or brand is to be used to probably cause confusion or to aid theft or dishonesty, and if so, it shall be the duty of the department to decline to admit to record such a mark or brand. If a conflict should arise between the owner of any presently recorded mark or brand and another claiming the right to record the same mark or brand, the department shall in all cases give precedence to the present owner. The department shall charge and collect at the time of any such recording a fee of one dollar for each mark or brand. No person, firm or corporation shall use any mark or brand to which another has a prior right of record. It shall be unlawful to brand any animal with a brand not registered with the department.

History—c. 65-357; c. 69-233; §14, 35, ch. 69-106.

Note.—Similar provisions in former §534.02.

534.031 Certified copies of marks and brands.—Certified copies of recorded marks and brands shall be furnished by the department when and as requested and it shall charge and collect one dollar for each certificate. Such certificates shall be admissible in evidence in all courts.

History—c. 65-357; §14, 35, ch. 69-106.

Note.—Similar provisions in former §534.03.

534.041 Renewal of certificate of mark and brand.—The department shall, on or before July 1, 1966, and every five years thereafter, notify by letter the owner of marks and brands then on record that upon his application for renewal the department shall issue a renewal certificate granting the owner exclusive ownership and use of such mark and brand for another five year period. Failure to make application for renewal within three months shall cause the department to notify the registered owner by registered mail at his last known address. Failure of the registered owner to make application for renewal within three months after notification by registered mail shall cause such owner’s mark and brand to be placed on an inactive list for a period of twelve months, after which it shall be canceled and become subject to registration by another person on application.

History—c. 65-357; §14, 35, ch. 69-106; c. 70-132; c. 70-439.

534.051 Transfer of ownership of mark or brand.—Marks or brands recorded under this act are the property of the person, firm or corporation causing the record to be made, and may be sold, assigned or donated as personal property. Any instrument affecting the title of such mark or brand shall be acknowledged in the presence of the recorded owner and a notary public, and shall be recorded by the department. The fee for recording a transfer of ownership shall be one dollar.

History—c. 65-357; §14, 35, ch. 69-106.

534.061 Transfer of ownership of cattle.—It shall be the duty of all purchasers of cattle, except for immediate slaughter, to remark or rebrand the same within ten days, or have on
request a bill of sale from the rightful owner of marks and brands on cattle, provided that this requirement shall not apply where an entire stock of cattle with the mark and brand or marks and brands carried by them shall be sold and conveyed.

History.—Ch. 65-357.

534.071 Rules and regulations.—The department shall prescribe and enforce suitable rules and regulations for the inspection of livestock and carcasses of livestock to the end that the true ownership thereof may at all times be protected and larceny prevented and for the enforcement of this chapter. The department is hereby authorized to permit all necessary inspections and to use any other designated persons to enforce and administer the provisions of this chapter.

History.—Ch. 65-267; 1114.35, ch. 68-106.

Note.—Similar provisions in former §534.04.

534.081 Duties of law enforcement officers; appointment of special officers.—(1) All law enforcement officers of the state or any political subdivision thereof, including investigators of the department and highway patrolmen, are hereby authorized to stop any driver of a vehicle transporting livestock or carcasses of livestock and to require said driver to present for inspection the evidence of ownership or authority of possession of such livestock or carcasses of livestock.

(2) All law enforcement officers of the state or any political subdivision thereof, including investigators of the department, shall have the authority to visit all markets, slaughtering establishments, and places where slaughtered animals are offered for sale at reasonable intervals and to keep said markets under close observation.

(3)(a) The department may appoint as special officers the investigators of the department authorized by this section. Said special officers and all other law enforcement officers of the state shall have power and authority throughout the state in carrying out their duties specified in this section and in the enforcement of criminal provisions of this chapter and other laws relating to livestock theft. Each such special officer shall be covered by a public employee's faithful performance of duty bond, with a corporate surety authorized to do business in this state, in the sum of five thousand dollars, to be approved by the governor and his successors in office.

(b) All such special officers shall have power and authority to make arrests, with or without warrants, for the violations of the criminal provisions of this chapter and other laws relating to livestock theft, to the same extent and under the same limitations and duties as do peace officers under the provisions of chapter 901. In each case when any of such officers effect an arrest, the sheriff of the county in which such arrest is made shall be entitled to the lawful fees as if such arrests had been effected by him or his deputies.

(c) In the enforcement of the provisions of this chapter and other laws relating to livestock theft, such officers may go upon all premises, posted or otherwise, when necessary for the enforcement of such laws. The department may, at any time for cause, withdraw the appointment as special officers from said investigators of the department. All such special officers shall have the same right and authority to carry arms as do the sheriffs of this state. The compensation of such special officers shall be fixed and paid by the department.

History.—Ch. 65-357; 13, ch. 69-333; §§14, 35, ch. 69-106; 1, ch. 70-255; 1, ch. 70-432.

Note.—Similar provisions in former §534.12.

534.082 Duties of livestock hide dealers.—Livestock hide dealers shall make and keep a record of all hides of livestock received by them, which record shall include the name and address of the person from whom the hides were purchased, a description of the hides, brands, and any other identifying information. Such record shall be maintained for public or official inspection for a period of two years.

History.—Ch. 65-357.

534.083 Livestock hauler's permit; display of permit on vehicle; bill of lading.—(1) No person or company shall engage in the business of transporting or hauling for hire livestock along the public roads or highways of Florida without first having applied for and obtained from the department a permit on a form prescribed by the department. Said permit shall be renewed on or before January 1 each year. Cost of the permit shall be five dollars.

(2) The department shall issue a metal tag or plate to every person or company required to obtain a permit to transport or haul for hire livestock, which shall bear the serial number of the permit. Such a tag or plate shall be issued for each vehicle used by the hauler.

(3) The metal tag or plate required under this section shall be attached to each vehicle used for transporting or hauling livestock in a conspicuous place in an upright position on the rear of the vehicle. When livestock is transported in a trailer type vehicle propelled or drawn by a motor truck or tractor, each such trailer shall have the tag or plate attached to the rear of the trailer in a conspicuous place in an upright position, and it shall not be necessary to have a tag attached to the motor truck or tractor.

(4) Persons engaged in the business of transporting or hauling livestock in the state shall, upon receiving such livestock for transportation, issue a waybill or bill of lading for all livestock transported or hauled by them, and such waybill or bill of lading shall ac-
company the shipment of livestock, with a copy thereof being furnished to the person delivering livestock to the hauler. The waybill or bill of lading shall show the place of origin and destination of the shipment, the name of the owner of the livestock, date and time of loading, the name of person or company hauling the livestock, and the number of animals and a general description thereof. The waybill or bill of lading shall be signed by the person delivering the livestock to the hauler certifying that the information contained thereon is correct.

History.—11, ch. 65-357; §§14, 30 ch. 69-106.

§ 534.091 Claim of ownership without title.—It shall be unlawful for any person, firm or corporation to have the possession of livestock or carcasses of livestock under claim of ownership when in fact said person, firm or corporation does not own said livestock or carcasses of livestock.

History.—11, ch. 65-357.
Note.—Similar provisions in former §534.10.

§ 534.101 Penalties.—Any person who shall violate the provisions of §§534.011-534.091, either by doing anything forbidden, or failing to do and perform anything required hereby, shall be guilty of a misdemeanor of the second degree, punishable as provided in §§775.082 or §§775.083.

History.—11, ch. 65-357; §§25, 71-106.
Note.—Similar provisions in former §534.18.

§ 534.111 Injunction.—In addition to the remedies provided in this chapter, and notwithstanding the existence of any adequate remedy at law, the department is hereby authorized to make application for injunction to a circuit court or circuit judge and such circuit court or circuit judge shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this chapter, or for failing or refusing to comply with the requirements of this chapter, or any rule or regulation duly promulgated as in this chapter authorized, such injunction to be issued without bond.

History.—11, ch. 65-357; §§14, 35, ch. 69-106.
Note.—Similar provisions in former §534.19.

§ 534.47 Definitions.—As used in §§534.48-534.53:

1. “Department” means the Department of Agriculture and Consumer Services.

2. “Livestock market” means any location in the state where livestock is assembled and sold at public auction or on a commission basis during regularly scheduled or special sales. The term “livestock market” shall not include private farms or ranches or sales made at livestock shows, fairs, exhibitions, or special breed association sales.

3. “Buyer” means the party to whom title of livestock passes or who is responsible for the purchase price of livestock, including, but not limited to, producers, dealers, meat packers, or order buyers.

History.—11, ch. 73-40.

§ 534.48 License and fee.—Prior to engaging in business, every livestock market shall make application to the department for a license. Such application shall be on a form provided by the department and shall be accompanied by an annual license fee of $100. Upon approval of the application by the department, a license shall be issued and shall remain in effect for one year from the date of issuance unless terminated by the department. All funds received as license fees shall be placed in the general inspection trust fund.

History.—§2, ch. 73-40.

§ 534.49 Collection and deposit for sales.—Collection for livestock sold at a livestock market shall be made by the livestock market on the date of sale, and the proceeds therefrom shall be deposited in the livestock market custodial account no later than the next banking day following the date of sale. Collection for livestock sold at a livestock market shall be accepted only in the form of cash, check, or draft. There shall be no loans made from the custodial account of a livestock market to a buyer of livestock at said livestock market.

History.—§3, ch. 73-40.

§ 534.50 Report and notice of dishonored check or draft.—It shall be the duty and responsibility of each livestock market to report to the department within twenty-four hours after having knowledge that a check or draft issued in payment for livestock has been dishonored, and it shall be the duty and responsibility of the department to notify all licensed livestock markets of the fact of such dishonor of any such check or draft issued in payment for livestock.

History.—§4, ch. 73-40.

§ 534.51 Prohibition against filing complaint.—A livestock market shall be prohibited from filing a complaint under §604.21 if such livestock market has violated any provision of §§534.47-534.53 in connection with any transaction included in the cause of action for said complaint.

History.—§5, ch. 73-40.

§ 534.52 Violations; refusal, suspension, revocation; penalties.—

1. For any violation of §§534.47-534.53, the department may refuse to renew a license or may suspend or revoke a license already issued, upon notice to the applicant or licensee of its intention so to refuse, suspend, or revoke by giving its reasons therefor. The applicant or licensee shall have fifteen days thereafter in which to request a hearing on the department’s intentions to refuse, suspend, or revoke his license, and upon his failure to do so within said time, refusal, suspension, or revocation shall become final without further procedure.
(2) In addition, or as an alternative to refusing, suspending, or revoking a license in cases involving violations, the department may, upon following the same procedure as for refusing, suspending, or revoking a license, impose a fine not to exceed $500 for the first offense and not to exceed $1,000 for the second or subsequent violations. When imposed and paid, such fines shall be deposited in the general inspection trust fund.

History.—§6, ch. 73-40.

534.53 Information and records.—The livestock auction market shall be required to record and maintain information or records necessary to properly administer and enforce §§534.47-534.53, and such records shall be made available for inspection by the department or its agents during regular business hours.

History.—§7, ch. 73-40.
CHAPTER 535
REGULATION OF HORSE SALES, SHOWS AND EXHIBITIONS

535.01 License by department required to conduct public vendue of thoroughbred horses.
535.02 Rules and regulations by department.
535.03 Inspection by licensed veterinarian.
535.04 Submission to department of detailed pedigree.
535.05 License fee.
535.06 Fee for examination of horses.
535.10 Horse sales or shows; soring of horses; prohibited acts.
535.11 Prohibition against administration of certain drugs; testing.
535.12 Horse shows or sales; penalties for violations.
535.13 Inapplicability to horse racing.

535.01 License by department required to conduct public vendue of thoroughbred horses.

All sales entries of thoroughbred yearlings or two-year-old thoroughbred horses are offered for sale within the state; and no license shall be issued to any such sales organization by the department until such sales organization shall furnish to the department, on forms made and supplied by the department, a statement of financial responsibility and the minimum requirements established for sale facilities.

History.--15, ch. 65-414; §14, 35, ch. 68-106.

535.02 Rules and regulations by department.

The department shall establish reasonable regulations and rules and set requirements for the financial responsibility and the minimum requirements for sales facilities, which rules and regulations must be complied with by any sales organization prior to the issuance of a license referred to in §535.01, and an application for said license must be made at least four months prior to a sale date.

History.--15, ch. 65-414; §14, 35, ch. 68-106.

535.03 Inspection by licensed veterinarian.

All sales entries of thoroughbred yearlings or two-year-old thoroughbred horses offered for sale within the state at public vendue must be inspected and approved by a veterinarian approved and licensed by the department sixty days before the date of any public sale and all entries must be reinspected by said state licensed veterinarian within three to seven days prior to the sales session at which they are to be sold, and the state licensed veterinarian shall issue a certificate of soundness and a certificate that said animal is free from infectious diseases upon so finding and no thoroughbred yearling or two-year-old horse shall be entered for sale at public vendue in the state until the owner thereof shall obtain such certificate of soundness.

History.--13, ch. 65-414; §14, 35, ch. 68-106.

535.04 Submission to department of detailed pedigree.

As a prerequisite of the entry of any thoroughbred yearling or two-year-old thoroughbred horse in any public vendue in the state the owner of said animal must first submit to the department of agriculture and consumer services and to the sales organization a detailed pedigree of said animal at least sixty days prior to the opening of any such public vendue and the department is authorized and directed to establish the minimum requirements of the pedigree requirements provided for in this section.

History.--14, ch. 65-414; §14, 35, ch. 68-106.

535.05 License fee.

The department shall assess a reasonable fee to cover the cost of licensing the sales organization as herein provided for and said fee must be paid by the sales organization prior to obtaining a license hereunder.

History.--15, ch. 65-414; §14, 35, ch. 68-106.

535.06 Fee for examination of horses.

The department shall assess a reasonable fee to be paid by the owner of any thoroughbred yearling or two-year-old thoroughbred horse for the cost of the examination of said animal by the state-approved and licensed veterinarian, and for the cost of the certificate of soundness herein provided for and said fee shall be paid by the said owner prior to the issuance of the certificate of soundness.

History.--16, ch. 65-414; §14, 35, ch. 68-106.

535.10 Horse sales or shows; soring of horses; prohibited acts.

(1) For the purposes of §§535.10-535.13, a horse shall be considered to be sored if, for the purpose of affecting its natural gait:
(a) A blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse;
(b) Burns, cuts, or lacerations have been inflicted on the horse;
(c) A chemical agent has been administered internally or externally, or tacks, nails, or wedges have been used on the horse; or
(d) Any other method or device has been used on the horse, which may reasonably be expected currently to result in physical pain to the horse when walking, trotting, or otherwise moving or to cause extreme fear or distress to the horse.

(2) (a) It is unlawful for any person to show...
or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition, any horse which is sored.

(b) It is unlawful for any person to conduct any horse show or exhibition in which they knowingly allow to be shown or exhibited a horse which is sored or drugged.

(3)(a) The department of agriculture and consumer services is authorized to make such inspections of any horse at any horse show or exhibition as may be deemed necessary by the department for the effective enforcement of §§535.10-535.13, and the owner or other person having custody of any such horse shall afford the department access to and opportunity so to inspect the horse.

(b) The person or persons in charge of any horse show or exhibition shall keep such records as the department of agriculture and consumer services may prescribe by regulation in order to enable the department to determine whether any horse has been sored, the identity of the owner or exhibitor of any horse at the show or exhibition, and other facts necessary for the effective enforcement of §§535.10-535.13. The person or persons in charge of any horse show or exhibition shall afford the representatives of the department access to and opportunity to inspect and copy such records at all reasonable times.

535.11 Prohibition against administration of certain drugs; testing.—

(1) No person shall administer or cause to be administered to a horse, either before or during a public horse show or sale, any medication or drug which is of such character as to affect the performance or disposition of the animal.

(2) The first place winner and one other horse selected at random from each event at a public horse show may be tested by an approved veterinarian representing the department of agriculture and consumer services. Every exhibitor shall, upon request of the show or sale management, permit such test specimens as are necessary to be taken by the department's authorized representatives.

(3) If the veterinarian reports that an analysis of the specimen taken from the horse indicates the presence of a drug or medication that could affect the performance or disposition, this fact shall be prima facie evidence that such a drug or medication has been administered to the horse.

(4) The exhibitor, whether an owner, trainer, or other, shall be responsible for the condition of each horse he enters and exhibits.

(5) No person who is not an approved veterinarian shall possess at a public show or sale any hypodermic needle or any other paraphernalia capable of injecting any drug into a horse, with the intent to inject any drug or medication capable of affecting the performance or disposition of the animal.

History.—§1, ch. 71:166.

535.12 Horse shows or sales; penalties for violations.—

(1) Any person who violates the provisions of subsection (1) of §535.11 is guilty of a misdemeanor of the second degree, punishable as provided in §§775.082 and 775.083. For a second or subsequent offense, any person violating any provisions of §§535.10-535.13 is guilty of a misdemeanor of the first degree, punishable as provided in §§775.082 and 775.083.

(2) In addition to the penalties provided in subsection (1), any person who violates any of the provisions of §§535.10-535.13 shall, upon conviction thereof, be barred from showing, exhibiting, or offering for sale, at a public sale, any horses in this state for a period of two years from the date of the conviction for said violation.

History.—§2A, ch. 71:166.

535.13 Inapplicability to horse racing.—

No provision contained in §§535.10-535.12 shall in any way affect existing statutes governing horse racing.

History.—§4, ch. 71:166.
536.13 Stamp or brand for logs.—Any person engaged in this state in the business of getting out, buying, selling or manufacturing saw logs, may adopt a stamp or brand for such logs, of such design as he may select.

History.—11, ch. 4191, 1893; GS 3705; RGS 2933; CGL 8803.

536.14 Brands to be recorded by clerk of circuit court.—A person may execute a written declaration that he has adopted a brand, describing it, and after acknowledgment of such declaration before any officer authorized to take acknowledgments of deeds, may have the same recorded by the clerk of the circuit court in the record of mortgages, in any county in which he may desire to own or have in possession saw logs.

History.—12, ch. 4738, 1899; GS 1258; RGS 2934; CGL 8803.

536.15 May prevent use by others.—Any person who has had his brand recorded in any county, may prevent other persons from using the same in said county by a writ of injunction, restraining such use.

History.—14, ch. 4738, 1899; GS 1259; RGS 2935; CGL 8804.

536.16 Prima facie evidence of ownership.—Any log found in any county branded with a brand recorded in said county by any person shall be deemed prima facie to be the property of such person.

History.—15, ch. 4738, 1899; GS 1260; RGS 2936; CGL 8805.

536.17 Where two or more brands the same.—In case there shall be recorded in the same county two or more brands the same, or substantially the same, the brand first recorded shall be the lawful brand, and the other shall be of no effect under this chapter.

History.—16, ch. 4738, 1899; GS 1261; RGS 2937; CGL 8806.

536.18 Defacing the mark or brand of lumber and timber.—If any person shall fraudulently alter, change or deface the duly recorded mark, brand, or stamp of any lumber, logs or timber, or shall fraudulently mark, brand or stamp any unmarked or unstamped or unbranded lumber, logs or timber, with intent to claim the same or to prevent identification by the owner or owners thereof, the person so offending shall be punished as if he had committed larceny of the same property.

History.—11, ch. 4191, 1893; GS 3705; RGS 2933; CGL 8807.

536.19 Unlawful use of recorded log brand or stamp.—Any person who shall unlawfully use any recorded log brand or stamp of another shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

536.20 Inspection, buying or selling timber by illegal standard; penalty.—Any person buying or selling logs or square timber by any other measure or scale than Doyle's rule and log book, or any timber inspector willfully making return of any inspection scale or measurement of timber except according to said book, shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083; provided, when it is mutually agreed between the buyer and the seller, a measure or scale other than Doyle's rule book may be adopted and a survey can be made by a party other than a commissioned inspector.

History.—RS 2720, 2721; 114, 5, ch. 8808, 1899; GS 8710; RGS 3523; CGL 8808; §525, ch. 71-136.

536.21 Penalty for false representations, etc.—Any commissioned timber inspector or other person furnishing specifications or certificates of inspection of sawed pine timber in this state, who shall falsely represent, or fail to show on such specification or certificate, the classification of such timber by law, shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

History.—16, ch. 4416, 1899; GS 9711; RGS 5662; CGL 8810; §527, ch. 71-136.

536.22 Lumber, moisture content; enforcement.—

(1) All lumber two inches or less in thickness shall contain not more than nineteen per cent moisture content at the time such lumber is permanently installed into a structure or building used for human habitation. Such lumber shall at no time be less than American lumber standard sizes when such lumber is at nineteen per cent moisture content.

(2) It shall be the duty of every state attorney and sheriff, the department of agriculture and consumer services or its duly authorized representative, and any other appropriate state and county official to enforce the provisions of this section. The aforementioned officials are authorized to make application for injunction to
the proper circuit court and the judge of said court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction or both restraining any person from violating or continuing to violate any of the provisions of this section or from failing or refusing to comply with the requirements of this section, said injunction to issue without bond.

(3) The installation of any lumber which does not conform to the provisions contained in subsection (1) shall be prohibited and any person installing such lumber in a structure or building for human habitation shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

History.—§§1, 2, ch. 61-209; §1, ch. 63-309; §§14, 35, ch. 69-106; §528, ch. 71-136; §26, ch. 73-334.
CHAPTER 537

YACHT AND SHIP BROKERS

537.01 Short title. — This chapter, referred to as the yacht and ship brokers' act, will be administered by the division of general regulation of the department of business regulation.

537.02 Definitions. —

(a) "Broker" means a person who, as a whole or partial vocation, for others, sells or offers for sale, buys or offers to buy, lists, solicits prospective purchasers of, negotiates the purchase of, sale or exchange of, charters, offers to charter, negotiates the charter of, leases, rents, places for lease or rent, or negotiates loans on yachts or ships. A person shall be deemed to be a broker within the meaning of the law if, for another, he does any of the acts or participates in any of the transactions herein defined, even though at some subsequent time he may obtain title to, or procure in his own name the certification or registration of the yacht or ship in question.

(b) "Salesman" means an individual who, as a whole or partial vocation, for compensation, is employed by a licensed broker to do any or all things that the broker may do under this chapter.

(c) "Division" means the division of general regulation of the department of business regulation.

(d) "Yacht" and "ship" mean any vessel propelled by sail or machinery in the water and exceeding twenty-five feet in length.

(e) "Fund" means the yacht and ship brokers' fund.

(f) "Person" includes individual, partnership, association and corporation.

537.03 Administration. —

(1) Except as otherwise provided by law, all records of the division shall be open to inspection by the public during regular office hours.

(2) The division shall further:

(a) Regulate and control the issuance and revocation of the licenses, temporary and permanent, issued under this chapter.

(b) Prescribe rules and regulations to make this chapter effective.

(c) Perform all other acts and duties necessary for the proper conduct and enforcement of this chapter and institute proceedings in any court of competent jurisdiction when necessary to enforce their provisions by injunction or otherwise.

(3) Copies of all records and papers in the division's office shall be received in evidence in all cases when certified under the hand and seal of the division equally and with like effect as the originals.

(4) Neither the division nor its employees shall be interested in any yacht or brokerage firm as director, officer, as stockholder, agent or employee. Neither shall any of its employees act as a broker or salesman, nor shall he have an interest in the activities of any broker or salesman operating under this chapter.

(5) The division will prescribe the duties of all deputies, assistants and clerks and shall be responsible for their conduct and adherence to duty.

(6) Every violation of this chapter is a misdemeanor. The division may assist any prosecuting attorney in the prosecution of any case arising out of violations of this chapter that constitute a crime.

(7) The division shall publish, or cause to be published, on or before July 1 of each year, a directory of brokers and salesmen and may publish such other information as it deems expedient and proper. It may also issue a periodical bulletin concerning matters arising under the administration of this chapter.

(8) The division or its duly authorized representative may administer oaths for the purpose of administering this chapter.

537.04 Licensing. —

(1) It is unlawful for any person to engage in the business or to act in the capacity of a yacht and ship broker or salesman, or to accept compensation for acting in either capacity in whole or in part, without first obtaining license so to do.

(2) Only the person to whom a license is
issued may perform or offer to perform any services subject to the provisions of this chapter.

(3) No fictitious name shall be used by a broker in the conduct of any business for which a license is required under this chapter unless a license bearing such fictitious name has been issued to said broker.

(4) This chapter does not apply:
(a) To a transaction involving the sale by an individual or corporation of his or its own yacht or ship.
(b) To an attorney at law for services rendered in his capacity as attorney at law.
(c) To any receiver, trustee in bankruptcy or other person acting under the order of any court.
(d) To a transaction involving the sale of a new yacht or ship or trade thereon.
(e) To any transaction involving the foreclosure of a security interest in a yacht or ship.

(5) Any person purchasing used yachts or ships for resale must transfer actual title to any such yacht or ship into his name and have in his possession, subject to inspection by the division, a good and sufficient title or bill of sale if such person wishes to claim exemption under this chapter.

(6) All applications for licenses shall be made in writing and every application shall be accompanied by the recommendations of two citizens of good repute of the county in which the applicant resides or has his place of business certifying that the applicant is honest, truthful and of good reputation; that he maintains a year-round operation and recommending that the applicant be granted a license. An applicant shall be at least twenty-one years of age. If he has not resided or engaged in business in the county for at least one year, three yacht and ship brokers may take such recommendation.

(7) The division may deny a license to any applicant who fails to:
(a) Pass the written examination.
(b) Furnish satisfactory certification of honesty, truthfulness, good reputation and recommendations that license be issued.
(c) Certify that he has never been convicted of a felony.
(d) Post the required bond as provided in subsection (8).

(8) Every applicant for a broker's license or renewal thereof shall deposit with the division a good and sufficient surety bond issued by a company authorized to do business in the state in the amount of five thousand dollars, and in such form and on such conditions as the division may require for the protection of persons with whom the applicant may deal as a licensee, or, in lieu thereof, bonds of the United States government with a cash value in a like amount; it shall be necessary for the broker to continue the bond while employed or acting as a yacht or ship broker in the state and for those who have deposited United States government bonds to leave them on deposit for a period of one year after ceasing to be a broker.

(9) Every applicant for a salesman's license or renewal thereof shall deposit with the division a similar bond or equivalent thereto in the sum of one thousand dollars, as provided in subsection (8), subject to the same conditions as set forth therein.

(10) Any person claiming to be injured by the fraud, deceit or wilful negligence of any broker, of any broker's salesman, or by the failure of any broker or salesman to comply with the provisions of this chapter, may bring an action upon the bonds deposited with the division against both the principals and the surety in any court of competent jurisdiction to recover the damage caused by such fraud, deceit, wilful negligence or failure to comply with the provisions of this chapter. In the event that any broker fails to pay any sum owed to any creditors arising out of any transaction in which such broker acted in his capacity as a broker, the division shall call and hold a hearing to determine the names of all such creditors to determine the amounts due and owing to them and to each of them. The publication of one notice in a newspaper or magazine of general circulation devoted to news of the yacht and ship business shall constitute good and sufficient notice of such hearing. Each creditor claiming that a sum is owed to him shall file with the division at the hearing a verified statement of his claim. Upon ascertaining all claims and statements in the manner herein set forth, the division may then make demand upon the bond on behalf of those claimants whose statements have been filed, and shall have the power to settle or compromise said claims with the surety company on the bond, and is empowered in such cases to execute and deliver a release of said bond and a discharge of further liability. If the surety company refuses to pay the demand, the division shall thereupon bring an action on the bond in behalf of said creditors.

(11) (a) Upon any action being commenced on said bond, the division may require the filing of a new bond and immediately on the recovery in any action on such bond, the broker involved shall file a new bond. Failure so to do within ten days shall constitute grounds for the suspension or revocation of his license.

(b) Upon the filing of notice with the division by any surety of its withdrawal as surety for any licensee under the provisions of this chapter, the division shall forthwith notify the licensee of such withdrawal, by registered mail addressed to his principal office as shown by the records of the division, with request for return receipt. The license of any licensee shall be suspended and shall be returned to the division upon the termination of the bond of the surety as provided in this section, unless,
prior to the termination, a new bond has been filed with the division.

(12) Every broker seeking a license under this chapter shall maintain a place of business within the state which shall be operated on a year-round basis as his principal office and may establish branch offices elsewhere in the state. Every broker maintaining more than one place of business within the state shall procure an additional license for each office maintained by him.

(13) (a) Every license issued to a corporation entitles an officer of the corporation to act as a licensee under the license and every license issued to a copartnership entitles one member to act as the licensee under the license. Any member of a copartnership who desires to act as a broker or salesman under this chapter on his own behalf shall procure a license.

(b) Every corporation making application for a license under this chapter shall furnish the division with a resolution of its board of directors, giving the name of the officer who is to act for and on behalf of the corporation, and every copartnership making an application for a license under this chapter shall set forth in the application the name of the partner who is to act under a license for and on behalf of the copartnership.

(c) Every corporation licensed under the provisions of this chapter may, by a resolution of its board of directors, substitute another officer for the one named in the license; provided the person to be substituted qualifies by passing a written examination and the corporation pays the required fees, as set forth in this chapter.

(d) Every copartnership licensed under the provisions of this chapter may substitute another partner for the one named in the license; provided, such partner qualifies by passing the written examination and the copartnership pays the required fees as set forth in this chapter.

(14) Any person who has been denied a license or whose license has been revoked or is under suspension or has not been renewed while under suspension, or any person who has been a member of a partnership or an officer or director of a corporation the license of which has been revoked or is under suspension or has not been renewed while under suspension and who while acting as such partner, officer or director participated in the act for which the license was suspended or revoked, may be prohibited from serving as a member of a licensed partnership or as an officer or director of a licensed corporation, and the employment, election or association of such person in such capacity by an applicant or a licensee shall constitute ground for the denial of an application and the suspension or revocation of a license.

(15) (a) Every license shall be prominently displayed in the office of the broker in which the business of the broker or salesman is transacted.

(b) Every salesman’s license shall remain in the possession of the broker by whom the salesman is employed until canceled or until he leaves the employment of the broker. Immediately upon the salesman’s withdrawal from the employment of the broker, the broker shall return the salesman’s license to the division for cancellation.

(16) Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the division may be issued without charge to each licensee, if an individual, or if the licensee is a person other than an individual, to its manager and to each of its officers, directors, members and partners, which card shall be evidence that the licensee is duly licensed pursuant to this chapter. When any person to whom a card is issued terminates his position, office or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the division for cancellation.

History.—§ 4, ch. 65-562; § 1, ch. 67-483; §§ 16, 35, ch. 69-106.

*Note.—Ch. 73-21, Laws of Florida, removed the disability of non-age for persons 18 years of age and older.

cf.—§ 1.01(14) Definition of minor.

§743.07 Rights, privileges and obligations of persons 18 years of age or older.

§537.05 Regulation of transactions.—

(1) Within one month after the closing of a transaction in which title to a yacht or ship is conveyed from a seller to a purchaser through a licensee under this chapter, such licensee shall inform or cause the information to be given to the seller and purchaser in writing of the selling price thereof and in the event an exchange of yachts or ships is involved, such information shall include a description of said property and amount of added money consideration, if any. If any transaction is closed through escrow and the escrow holder renders a closing statement which reveals such information, this shall be deemed compliance with this section on the part of the licensee.

(2) Before any licensee under this chapter shall engage in any transaction for which a license is required under this chapter, he shall obtain a written authorization from his principal to so act. A telegraphic authorization from the principal shall be deemed to comply with the requirements of this section.

(3) When a licensee prepares or there is prepared on behalf of a licensee an agreement authorizing or employing such licensee to purchase, sell or exchange a yacht or ship, for compensation or commission, such licensee shall deliver a copy of the agreement to the person signing it. Receipt for said copy may be made on the face of the agreement.

History.—§ 4, ch. 65-562.

§537.06 Disciplinary proceedings.—

(1) The division may upon its own motion and shall upon the verified written complaint
of any person, investigate the actions of any broker or salesman, whether or not licensed.

(2) Proceedings under this chapter shall be conducted in accordance with the rules and regulations of the division.

(3) The division may suspend or revoke the license of a broker or salesman who commits any of the following acts:

(a) Makes a substantial and intentional misrepresentation upon which any person has relied.

(b) Makes a false warranty of a character likely to influence, persuade or induce any person with whom business is transacted under this chapter.

(c) Engages in a continued and flagrant course of misrepresentation or makes false warranties, whether or not relied upon by another person.

(d) Acts for the buyer and seller in a transaction without the knowledge and consent of both parties.

(e) Commingles the money or other property of his principal with that of his own.

(f) Performs any act or participates in any transaction which belongs to or is connected with a class for which he is not licensed.

(g) Uses coercive or oppressive methods for the purpose of obtaining business or of procuring an exclusive listing, or participates in a transaction knowing that such means have been or will be employed therein.

(h) Quotes prices higher than the gross listing prices.

(i) Resorts to fraud or dishonesty in the conduct of any transaction with his principal or other persons.

(j) Permits the use of his name to assist any person who is not a licensed yacht and ship broker or salesman to evade the provisions of this chapter.

(4) The division may suspend or revoke the license of a broker or salesman who within three years immediately preceding has committed any of the following acts or against whom and within said period, any of the following conditions exist:

(a) Procured a license under this chapter for himself or another by fraud, misrepresentation, falsification or deceit.

(b) Has been convicted of a felony and has withheld information of that fact from the division.

(c) Knowingly authorized, directed, connived, aided or otherwise participated in the publication, advertisement, distribution or circulation of any materially false statement or representation concerning his business or any transaction coming under the provisions of this chapter.

(5) An action to suspend or revoke the license of a broker or of a salesman for a violation of the provisions of this section shall be commenced within three years after the discovery of the division of such violation.

(6) A plea of nolo contendere, a conviction or a plea of guilty or a verdict of guilty to a charge of felony or of any offense involving moral turpitude is deemed within the meaning of this chapter. The division may order the license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made, suspending the imposition of sentence, irrespective of a subsequent order under the provisions of the penal code allowing such person to withdraw his plea of guilty, or dismissing the accusation, information or indictment.

(7) The adjudication of insanity or mental illness, or the voluntary commitment or admission to a state or other mental hospital of any licensee because of a mental illness, may operate as a cause for suspension of the right of any licensee to engage in business under this chapter, the suspension to continue until restoration to or declaration of sanity or mental competence. The record of adjudication, judgment or order of voluntary commitment or conclusion of insanity or mental illness and upon receipt of a certified copy of any such adjudication, judgment, voluntary commitment or order, the division may immediately suspend the license of the person so adjudicated or committed. The division shall not restore such license to good standing until it shall have received evidence of restoration of mental competence and is confident that, with due regard for the public interest, such person’s right to engage in business under the provisions of this chapter may be safely reinstated. In the case of a voluntary commitment to a state hospital or other institution for the treatment of mental illness, receipt of a certificate of discharge from such institution and the certificate of the superintendent in charge stating that the licensee is restored to mental competency, shall constitute competent evidence of restoration of mental competence and is confident that, with due regard for the public interest, such person’s right to engage in business under the provisions of this chapter may be safely reinstated. Before reinstating such license, the division may require the person to pass an oral examination to determine his present fitness to resume his practice.

History.—§ 6, ch. 65-562; 1116, 35, ch. 69-106.

537.07 Fees.—

(1) In the month of December each year, every person licensed under this chapter shall file with the division an application for renewal of his license and shall pay to the division the renewal fee required by this chapter, whereupon the division shall renew his license. Every license not renewed in accordance with this section shall expire on January 1 of the year following the year for which it was issued or renewed and shall forthwith be returned to the division. Such license may be reinstated only by the filing of an application therefor and the payment of the renewal fee required by this chapter, and in the year in which the reinstatement is sought, together with a penalty fee
equal to fifty per cent of the renewal fee. No examination shall be required for the reinstatement of a license which has expired solely for nonpayment of the renewal fee as required by this chapter.

(2) An application for reinstatement of a license which has expired pursuant to subsection (1) shall be on the form provided by the division and shall be signed or sworn to before a notary public or other person authorized by law to administer oaths and affirmations, or shall be executed under penalty of perjury. The division may refuse to grant reinstatement if the applicant, after the expiration of his license, has performed any act or participated in any transaction for which a license is required under this chapter, or during such period has committed any offense or performed any act which would be cause for the suspension or revocation of a license under this chapter.

(3) All fees charged and collected under this chapter shall be deposited by the division at least once a month into the state depository which shall be designated as the yacht and ship brokers' fund. All money paid into this fund is available to the division to carry out the provisions of this chapter and shall be paid out as designated by the division for furtherance of this chapter; provided however, that the total cost of administration and enforcement by the state shall not exceed the moneys collected as provided herein.

(4) All license fees shall be paid in advance of issuing the license and the taking of the examinations. The fee for the license shall be returned to the applicant if he fails to pass the examination.

(5) The division shall charge and collect the following fees:

(a) One hundred dollars for every original broker's license, regardless of class.
(b) One hundred dollars for the annual renewal of an original broker's license regardless of class.
(c) Twenty-five dollars for every salesman's license whether original or renewal.
(d) Fifteen dollars for a broker's or a salesman's examination. Fifteen dollars for each salesman's examination to increase the scope of a "B" to a "C" license.
(e) Five dollars for a salesman's license issued temporarily, subject to the provisions of §537.09.
(f) Twenty-five dollars for each additional license issued to a broker for a branch office and for every renewal thereof.
(g) Five dollars for each transfer of a salesman's license for every change of employment.
(h) Ten dollars for the substitution of a name in the license of a copartnership or corporation, plus a fifteen dollar fee for the examination of the applicant.

(1) The division shall have the power to adopt rules and regulations, to classify yacht and ship brokers and salesmen, and to regulate their activities within the field for which they are qualified and licensed.

(2) No salesman shall be licensed in any class other than that for which the employing broker is licensed.

(3) The division shall issue licenses for the following classes:

(a) Yacht and ship brokers and salesmen covering all phases of the business.
(b) Yacht brokers or salesmen handling transactions involving vessels under five hundred gross tons, or chartering and yacht management.
(c) Ship brokers and salesmen handling transactions involving freight and passenger ships or other vessels under sail or steam, in excess of five hundred gross tons.
(d) Charter brokers, shipping agents and the salesmen for either, handling the transactions involving the chartering and representation of mercantile vessels regardless of tonnage.

(4) A person shall not be deemed qualified to be licensed as a broker unless he maintains an active office in the state.

History.--18, ch. 65-562; 15, ch. 67-483; 116, 35, ch. 68-106.

537.09 Temporary licenses.--Temporary licenses may be issued to salesmen under the following conditions:

(1) Such licenses shall be issued for a period not to exceed sixty days and only one such license shall be issued to each applicant.

(2) An application must be filed for a temporary license and a permanent license, accompanied by the prescribed fees.

(3) The applicant must state under oath that he has not been guilty of any act that would constitute cause for the revocation of a permanent license and that he qualified for the position.

(4) Before the expiration of his temporary license, the licensee shall take a written examination for a permanent license of the class or classes which he selects and for which he is qualified. If without valid excuse he fails to appear for the examination at the time prescribed, the examination fee shall be forfeited.

History.--19, ch. 65-562.

537.10 Listings; licensing; disciplinary proceedings; trust fund accounts; advertising.--

(1) GENERAL PROVISIONS, LISTINGS.--

(a) An open listing is an agreement between the owner of a vessel and a broker which authorizes the broker to negotiate the sale, trade, or exchange of the vessel but reserves to the owner the right, without incurring a liability for the payment of a commission to such broker, to negotiate the sale, trade, or exchange of said vessel himself or to enter into open listing agreements with other brokers respecting said vessel.

(b) An exclusive listing is an agreement
between the owner of a vessel and a broker which provides that only such broker shall have the right to negotiate the sale, trade, or exchange of the vessel and if the vessel is traded or exchanged by the owner or any other person during the period of the agreement, the owner shall be liable to the broker for the agreed commission, notwithstanding that the broker had no part in negotiating such sale, trade or exchange.

(c) A central agency listing is an agreement between the owner of a vessel and a broker which provides that such broker shall negotiate a sale through special promotion, advertising and distribution of the listing to a roster of licensed brokers of the central agent's choice. During the period of the agreement the owner shall be liable to the broker for the agreed commission regardless of by whom the sale is made.

(2) LICENSING; TYPES OF LICENSES; APPLICATIONS; OTHER REQUIREMENTS.

(a) A temporary license to act as salesman will be issued only to an applicant who has a valid contract of employment as such salesman with a duly and regularly licensed broker.

(b) A salesman's license shall become inoperative upon the termination of such salesman's employment by a licensed broker, or upon the suspension or revocation of the employing broker's license; provided, however, that such salesman's license may be transferred to another licensed broker upon the holder's request. Such request for transfer must be accompanied by an appointment in writing executed by the new employing broker.

(c) All applications for brokers or temporary salesman licenses under this chapter shall be executed by the applicant and sworn to before a person authorized by law to administer oaths.

(d) A post office address on an application for a license shall not be considered a definite place of business.

(e) Any broker employing a salesman, which salesman regularly transacts business at a location other than the established principal office or branch offices of said broker, shall be deemed to be maintaining a branch office at such other location.

(f) All applications for license or renewals thereof shall be upon such appropriate forms as may be prescribed by the division.

(g) 1. Every bond executed by a surety company on behalf of a broker shall indemnify any injured person for money or property wrongfully withheld by such broker after demand by the person entitled thereto.

2. Every bond executed on behalf of a broker by a surety company shall also indemnify any injured person for damages awarded in a final judgment of a competent court for losses caused by such broker by reason of his wilful or negligent violation of any provision of this act.

(h) A broker's identification card shall be issued only to the person named on the license and there shall also appear on such card the name of the corporation, partnership or association which he represents. The broker to whom such identification card is issued shall place his signature thereon.

(i) A salesman's identification card shall be issued only to a licensed salesman and shall bear the name of the employing licensed broker. The salesman shall place his signature thereon.

(j) Every application by a copartnership for a broker's license shall be accompanied by an application for a salesman's license for each member of the copartnership other than the partner who has been named by the copartnership to act for and on behalf of such copartnership license when issued.

(3) DISCIPLINARY PROCEEDINGS.—It shall constitute coercive and oppressive methods within the meaning of this chapter if a licensee, who is also the owner, operator, or otherwise in charge of a landing pier or mooring place:

(a) Exacts or demands a portion of a broker's fee or commission from the sale by any other licensed broker or salesman of any yacht or boat moored at said landing pier or mooring place, solely because said yacht or boat was or is moored at such pier or landing place;

(b) Expels or denies or refuses to permit the continued use or lease of such landing pier or mooring place by an owner of a boat or yacht for the reason that said boat or yacht is listed for sale with another licensee;

(c) Expels or denies or refuses to permit the continued use or lease of such landing pier or mooring place by the purchaser of a boat or yacht moored at such landing pier or mooring place because another licensee has made the sale of such boat or yacht.

(4) TRUST FUND ACCOUNTS.—

(a) 1. Every person, partnership or corporation holding a broker's license under the provisions of this chapter who does not immediately place all funds entrusted to him by his principal or others in a neutral escrow depository or in the hands of principals, shall maintain a trust fund account with some bank or recognized depository and place all such entrusted funds therein upon receipt thereof.

2. Said trust fund account must designate the broker as trustee and all such trust fund accounts must provide for withdrawal of the funds without previous notice.

(b) Every broker required to maintain such trust fund account shall keep records of all funds deposited therein, which records shall clearly indicate the date and from whom he received the money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction.

(c) Failure to maintain a trust fund account when required and to deposit trust funds received promptly in said account may be con-
strued to be commingling, in violation of this chapter.

(5) ADVERTISING.—
(a) Advertising of any service for which a license is required under the provisions of this chapter shall not be under the name of a salesman unless the name of the employing broker is also set forth therein.
(b) In addition to the name of the broker on signs or in advertising, the words "licensed yacht and ship broker," "yacht broker," "ship broker," or "boat broker" may be used to indicate that the broker is a licensed yacht and ship broker.
(c) No person, firm or corporation may use any of the designations set forth in paragraph (b) unless duly licensed under this chapter.

History.—§10, ch. 65-562; §116, ch. 68-164.

537.12 Penalties.—Any person violating the provisions of this chapter is guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

History.—§12, ch. 65-562; §102, ch. 71-136.
CHAPTER 540
COMMERCIAL DISCRIMINATION

§540.01 Unfair discrimination and competition prohibited; definition of commodity.—
(1) Any person doing business in the state, and engaged in the production, manufacture, sale or distribution of any commodity in general use, that shall, for the purpose of destroying the business of a competitor in any locality, discriminate between different sections, communities, or cities of this state by selling such commodity at a lower rate in one section, community or city, than is charged for said commodity by said party in another section, community or city, after making due allowance for the difference, if any, in the grade or quality and in the actual cost of transportation from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be deemed guilty of unfair discrimination, which is declared unlawful; provided, however, that nothing herein contained shall prevent discrimination in prices in the same or different sections, communities, or cities of this state made in good faith in an amount necessary to meet competition.

(2) As used in this chapter the word commodity shall include any article, product, thing of value, service or output of a service trade.

History.—§1, ch. 6945, 1915; RGS 2517; CGL 3930; §1, ch. 61-223; §1, ch. 67-485.

§540.02 Duty of state attorneys, etc.—The state attorneys and the Department of Legal Affairs shall enforce the provisions of §540.01 by appropriate actions in courts of competent jurisdiction.

History.—§3, ch. 6945, 1915; RGS 2518; CGL 3940; §§11, 35, ch. 69-106; §36, ch. 70-304.

§540.03 Complaints made to department of state; duty.—If complaint shall be made to the department of state that any corporation authorized to do business in this state is guilty of unfair discrimination within the terms of this chapter, the department of state shall refer the matter to the department of legal affairs which may, if the facts justify it, institute proceedings in the courts against such corporation.

History.—§4, ch. 6945, 1915; RGS 2519; CGL 3941; §§10, 11, 35, ch. 69-106.

§540.04 Department of state to revoke permit of corporation found guilty of discrimination.

History.—§5, ch. 6945, 1915; RGS 2520; CGL 3942; §§10, 35, ch. 69-106.

§540.05 Ouster of corporation found guilty.

History.—§6, ch. 6945, 1915; RGS 2521; CGL 3943; §§11, 35, ch. 69-106.

§540.06 Unfair commercial discrimination prohibited; penalty.—Any person, firm, company, association or corporation violating any of the provisions of §540.01, and any officer, agent or receiver of any firm, company, association or corporation, or any member of the same, or any individual shall be guilty of a misdemeanor of the first degree, punishable as provided in §§775.082 or §775.083.

History.—§2, ch. 6945, 1915; RGS 5668; CGL 7871; §530, ch. 71-136.

§540.07 Unauthorized publication of name or likeness.—
(a) Such person; or
(b) Any other person, firm or corporation authorized in writing by such person to license the commercial use of his name or likeness; or
(c) If such person is deceased, any person, firm or corporation authorized in writing to

§540.08 Unauthorized publication of name or likeness.—
(a) Such person; or
(b) Any other person, firm or corporation authorized in writing by such person to license the commercial use of his name or likeness; or
(c) If such person is deceased, any person, firm or corporation authorized in writing to

§540.09 Unauthorized publication of photographs or pictures of areas to which admission is charged.
license the commercial use of his name or likeness, or if no person, firm or corporation is so authorized, then by any one from among a class composed of his surviving spouse and surviving children.

(2) In the event the consent required in subsection (1) is not obtained, the person whose name, portrait, photograph, or other likeness is so used, or any person, firm or corporation authorized by such person in writing to license the commercial use of his name or likeness, or, if the person whose likeness is used is deceased, any person, firm or corporation having the right to give such consent, as provided hereinabove, may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.

(5) The provisions of this section shall not apply to:

(a) The publication, printing, display or use of the name or likeness of any person in any newspaper, magazine, book, news broadcast or telecast or other news medium or publication as part of any bona fide news report or presentation having a current and legitimate public interest and where such name or likeness is not used for advertising purposes;

(b) The use of such name, portrait, photograph or other likeness in connection with the resale or other distribution of literary, musical or artistic productions or other articles of merchandise or property where such person has consented to the use of his name, portrait, photograph or likeness on or in connection with the initial sale or distribution thereof;

(c) Any photograph of a person solely as a member of the public and where such person is not named or otherwise identified in or in connection with the use of such photograph.

(2) The provisions of this section shall not apply to:

(a) Photographs, drawings or other visual representations in any newspaper, magazine, book, news broadcast or telecast or other news medium or publication as part of any bona fide news report or presentation having a current and legitimate public interest and where such photographs, drawings or other visual representations are not used for advertising purposes;

(b) Photographs, drawings or other visual representations in which the depiction of such property is incidental to the principal subject or subjects thereof and not calculated or likely to lead the viewer to associate such property with the sale, offering for sale or advertising of any property, product or service.

(3) Any person who by means of a tower or other structure to which directly or indirectly admission is charged shall permit any other person or persons to look into or view any previously established tourist attraction, the entry or admission to which for the purpose of viewing the same is subject to an admission charge or fee, without the express written or oral consent of the owner or operator of such previously established tourist attraction, shall be liable to the owner or operator of such previously established tourist attraction for any loss, damage or injury sustained by reason thereof and punitive or exemplary damages, and the use of a tower or other structure for such unauthorized viewing may be enjoined.

(4) The remedies provided for in this section shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of his privacy.

History.—§1, ch. 67-57; 69-243.
540.10 Exemption from liability of news media.—No relief may be obtained under §540.08 or §540.09, against any broadcaster, publisher or distributor broadcasting, publishing or distributing paid advertising matter by radio or television or in a newspaper, magazine or similar periodical without knowledge or notice that any consent required by §540.08 or §540.09, in connection with such advertising matter has not been obtained, except an injunction against the presentation of such advertising matter in future broadcasts or in future issues of such newspaper, magazine or similar periodical.

History.—§1, ch. 57-57.
541.001 Findings of fact.—
(1) It is hereby found, determined and declared that the public interests and general welfare of the state will best be served by permitting the maintenance of minimum resale prices of trade-marked, branded or named commodities which are in free and open competition with commodities of a like kind and quality; and
(2) It is found, determined and declared that without minimum resale price maintenance of trade-marked, branded and named commodities which are in free and open competition with commodities of the same general class, small retail merchants with limited purchasing power cannot survive the price wars or price cutting operations of large retail stores which, after forcing the small retailers out of business by such operations gain a virtual monopoly on the retail channels of commerce, contrary to the general welfare and public interest; and
(3) It is hereby found, determined and declared that predatory cutting of established prices of trade-marked, branded and named products, as a deceptive means of unfairly luring from competitive merchants their customers, and for other purposes, has been the most potent weapon to which the great and destructive trusts have resorted most frequently, thereby to weaken and destroy their smaller competitors financially unable to endure resultant losses. By such misleading practice there is virtually monopolized distribution interposed between the producer and the public, by which the monopolist may extort at will from the consumer, while dictating prices and product quality dilutions to the producer, all contrary to the welfare and public interest of the citizens of Florida; and
(4) Such predatory price cutting is injurious to the general public as distinguished from a particular group or class thereof, and is also injurious to the good will and business of the producer and the distributor of commodities bearing a trade-mark, brand or identifying name; and
(5) Prohibiting the unfair and discriminatory practice of price cutting of trade-marked, branded or named commodities which are in free and open competition with commodities of the same general class produced or distributed by others will foster and encourage free and honest competition and will safeguard the general public against the creation or perpetuation of monopolies; and
(6) The public interest and general welfare of the state require the permissive or optional maintenance of minimum resale prices established in accordance with the provisions of this chapter by producers or distributors of trade-marked, branded or named commodities which are in free and open competition, as a permanent public policy of the state, at all times, including periods of deflation or inflation; and
(7) This chapter is enacted as an exercise of the police power of this state, in order to serve the general welfare of the citizens of Florida, and with the further objective of preventing monopoly.

History.—s. 1, ch. 25204, 1949.

541.01 Short title.—This chapter may be known and cited as the “Florida fair trade law.”

History.—s. 110, ch. 19396, 1937; s. 10, ch. 19201, 1939; CGL 1940 Supp. 7100(14); s. 13, ch. 25204, 1949.

541.02 Definitions.—The following terms, as used in this chapter, are hereby defined as follows:
(1) “Commodity” means any subject of commerce.
(2) “Producer” means any grower, baker, maker, manufacturer, bottler, packer, converter, processor or publisher.
(3) “Wholesaler” means any person selling a commodity other than a producer or retailer.
(4) “Retailer” means any person selling a commodity to consumers for use.
(5) “Person” means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust or any unincorporated organization.

History.—s. 11, ch. 19396, 1937; s. 1, ch. 19201, 1939; CGL 1940 Supp. 7100(15); s. 12, ch. 25204, 1949.

541.03 Contract may govern price of sale or resale.—
(1) No contract relating to the sale or resale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which commodity is in free and open competition with commodities of the same general class produced or distributed by others shall be deemed in violation of any law of the state by reason of any of the following provisions which may be contained in such contract:
(a) That the buyer will not resell such commodity at less than the minimum price stipulated by the seller;
(b) That the buyer will require of any dealer to whom he may resell such commodity an agreement that he will not, in turn, resell at less than the minimum price stipulated by the seller;
(c) That the seller will not sell such commodity
1. To any wholesaler, unless such wholesaler will agree not to resell the same except to consumers for use and at not less than the stipulated minimum price, and such wholesaler will likewise agree not to resell the same to any other wholesaler unless such other wholesaler will make the same agreement with any wholesaler or retailer to whom he may resell; or
2. To any retailer, unless the retailer will agree not to resell the same except to consumers for use and at not less than the stipulated minimum price.
(2) Commodities which bear, or the labels or containers of which bear, trade-marks, brands or names of producers or distributors who shall be identical with, or under common ownership, for the purposes of this chapter shall be treated as a single commodity having a single producer or distributor.

541.04 Inducements to evade contract restrictions prohibited.—For the purpose of preventing evasion of the resale price restrictions imposed in respect of any commodity by any contract entered into pursuant to the provisions of this chapter (except to the extent authorized by the said contract):
(1) The offering or giving of any article of value in connection with the sale of such commodity;
(2) The offering or the making of any concession of any kind whatsoever (whether by the giving of coupons or otherwise) in connection with any such sale; or
(3) The sale or offering for sale of such commodity in combination with any other commodity, shall be deemed a violation of such resale price restriction, for which the remedies prescribed by §541.07 shall be available.

541.06 Exceptions.—No contract containing any of the provisions enumerated in subsection (1), §541.03 shall be deemed to preclude the resale of any commodity covered thereby without reference to such contract in the following cases:
(1) In closing out the owner's stock for the bona fide purpose of discontinuing dealing in any such commodity and when plain notice of the fact is given to the public; provided the owner of such stock shall give to the producer or distributor of such commodity prompt and reasonable notice in writing of his intention to close out said stock, and an opportunity to purchase such stock at the original invoice price;
(2) When the goods are altered, second-hand, damaged, defaced or deteriorated and plain notice of the fact is given to the public in the advertisement and sale thereof, such notice to be conspicuously displayed in all advertisements and to be affixed to the commodity;
(3) By any officer acting under an order of court.

541.07 Suit at law for violation of chapter.— Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of this chapter, whether the person so advertising, offering for sale or selling is or is not a party to such contract, and whether the particular lot of such commodity so advertised, offered for sale or sold was or was not at any time sold to a party to a contract that stipulated the price of such commodity under the provisions of this chapter is unfair competition and is actionable at the suit of any person damaged thereby.

541.08 Law not applicable to certain contracts.—This chapter shall not apply to any contract or agreement between or among producers or distributors or (except as provided in paragraph (c) of subsection (1) of this section) between or among wholesalers, or between or among retailers, as to sale or resale prices.

541.09 Contracts obstructing competition; department of legal affairs to investigate.—If after investigation, the department of legal affairs deems that any contract authorized by the provisions of this chapter prevents competition in the manufacture, making, transportation, sale or purchase of commodities of the same general class or that the commodity covered by the contract is not in free and open competition with a commodity or commodities of the same general class produced or distributed by a competitor of the parties to said
contract, it may bring an action in the name of this state to restrain the performance or enforcement of any such contract. Such action shall be begun in the circuit court of the county of the residence of any party to such contract by service of process upon all parties thereto. Where any of such parties are nonresidents of the state, service of process upon such parties shall be made by registered mail addressed to such parties at the address or addresses stated in said contract or, if not stated therein, then at the last known post office address or principal place of business of said parties returnable not less than thirty days after the mailing of said process; provided, that there shall be publication of notice of the suit in accordance with the laws of the state now existing.

History.—§10, ch. 2520, 1849; §§11, 35, ch. 60-106.
CHAPTER 542
COMBINATIONS RESTRICTING TRADE OR COMMERCE

542.01 Definitions; trust, commodity.—
(1) A trust is a combination of capital, skill or ability by two or more persons, firms, corporations, or associations of persons, or either two or more of them, for either, any or all of the following purposes:
(a) To create or carry out restrictions in trade or commerce, or aids to commerce, or to create or carry out restrictions in the full and free pursuit of any business authorized or permitted by the laws of this state;
(b) To increase or reduce the price of merchandise, produce or commodity;
(c) To prevent competition in manufacture, making, transportation, sale or purchase of merchandise, produce or commodities, or to prevent competition in aids to commerce;
(d) To fix at any standard or figure, whereby its price to the public shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, use or consumption in this state; or,
(e) Except as otherwise provided in chapter 541, to make or enter into or execute or carry out any contract, obligation, or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of or transport any article, commodity or article of trade, use, merchandise, commerce or consumption below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity or article of trade at a fixed or graded figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves or others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its price might in any manner be affected.

Provided, however, that no agricultural or horticultural nonprofit cooperative association organized and incorporated under the laws of the state, or any of its members, officers, agents or employees thereof or any of them, as such, shall be deemed to be a trust, a combination in restraint of trade, an illegal monopoly or any attempt to lessen competition or

542.02 Forfeiture of charter of domestic corporations for violations.—Any corporation holding a charter under the laws of the state which shall violate any of the provisions of this chapter shall forfeit its charter and franchise, and its corporate existence shall cease.

542.03 Dissolution proceedings instituted by department of legal affairs, etc.—For violation of any of the provisions of this chapter by any corporation mentioned herein, the department of legal affairs of any state attorney upon his own motion, and without leave or order of any court or judge, shall institute suit for the forfeiture of its charter rights and franchises and the dissolution of its corporate existence.

542.04 Foreign corporation violating chapter denied right to do business in state.—Every foreign corporation violating any of the provisions of this chapter is denied the right and prohibited from doing business within this state. The department of legal affairs shall enforce this provision by injunction, or other proper proceedings, in the name of the state.

542.05 Combinations prohibited; penalty.—
(1) Any person who shall or may become engaged in any combination of capital, skill or acts to fix prices arbitrarily, nor shall the marketing contracts or agreements between any such association and its members, or between any two or more of such associations, be deemed to be a trust, or be considered illegal or in restraint of trade.

(2) As used in this chapter, the word commodity shall include any article, product, merchandise, thing of value, service or output of a service trade.
by two or more persons, firms, corporations or associations of persons or of either two or more of them, for either, any or all of the following purposes:

(a) To create or carry out restrictions in trade or commerce or aids to commerce, or to create or carry out restrictions in the full and free pursuit of any business authorized or permitted by the laws of this state;

(b) To institute or reduce the price of merchandise, produce or commodities;

(c) To prevent competition in the manufacture, making, transportation, sale, or purchase of merchandise, produce, or commodities, or to prevent competition in aids to commerce;

(d) To fix at any standard or figure whereby its price to the public shall be in any manner controlled or established any article or commodity of merchandise, produce or commerce intended for sale, use, or consumption in this state;

(e) Except as otherwise provided in chapter 541, to make or enter into or execute or carry out any contract, obligation, or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of, or transport any article or commodity, or article of trade, use, merchandise, commerce, or consumption below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity, or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between themselves and others to preclude a free and unrestricted competition among themselves and others in the sale or transportation of any such article or commodity or by which they shall agree to pool, combine, or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its prices may in any manner be affected

or any person who shall aid or advise in the creation or carrying out of any such combination, or knowingly carry out any of the stipulations, purposes, prices, rates, directions, conditions or orders of such combinations, as principal, manager, director, agent, servant, or employee, or in any other capacity, shall be guilty of a felony of the third degree, punishable as provided in §§775.082, §775.083, or §775.084. Each day during a violation of this provision shall constitute a separate offense.

(2) Provided, however, that no agricultural or horticultural nonprofit cooperative association organized and incorporated under the laws of the state nor the members, officers, agents or employees thereof, or any of them as such, shall be deemed to be a combination prohibited under the meaning of this section nor shall the marketing contracts or agreements between any such association and its members, or between any two or more of such associa-

tions, be deemed to have created a combination prohibited herein.

History.—15, ch. 6933, 1916; RGS 5723; §2, ch. 10283, 1925; CGL 7948; §53, ch. 71-136.

1542.06 Sufficiency of indictment.—In any indictment or information for an offense named in this chapter it is sufficient to state the effects or purposes of the trust or combination, and that the accused was a member of, acted with, or in pursuance of it, without giving its name or description, or how, when, or where it was created.

History.—15, ch. 6933, 1916; RGS 5724; CGL 7949.

1542.07 Rule of evidence.—In prosecutions under this chapter it shall be sufficient to prove that a trust or combination exists, and that the defendant or defendants belonged to it or acted for or in connection with it, without proving all members belonging to it, or providing or producing any article of agreement or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all. General reputation may be given in evidence in all prosecutions of alleged combinations under the provisions of this chapter.

History.—17, ch. 6933, 1916; RGS 5725; CGL 7960.

1542.08 Criminal liability of nonresident.—Persons out of the state may commit and be liable to indictment and conviction for committing any of the offenses enumerated in this chapter, which do not in their commission necessarily require a personal presence in this state, the object being to reach and punish all persons violating its provisions, whether within or without this state.

History.—18, ch. 6933, 1916; RGS 5726; CGL 7961.

1542.09 Daily penalty for continued violations.—Every person who shall in any manner violate any of the provisions of this chapter, shall, for each day that such violation shall be committed or continued, forfeit and pay the sum of fifty dollars, which may be recovered in the name of the state in any county where the offense is committed. The department of legal affairs and state attorneys shall prosecute for and recover the same.

History.—19, ch. 69-33, 1916; RGS 5727; CGL 7962; §§11, 35, ch. 69-100, §58, ch. 75-344.

1542.10 Contract in violation of chapter void.—Any contract or agreement in violation of the provisions of this chapter shall be void and not enforceable either in law or equity.

History.—20, ch. 6933, 1916; RGS 5728; CGL 7963.

1542.11 Officers authorized to subpoena witnesses to testify as to violations; testimony of witnesses.—Any court, officer, or tribunal having jurisdiction of the offense defined in this chapter, the Department of Legal Affairs, any state attorney, or any grand jury may subpoena persons and compel their attendance as witnesses to testify as to the violation of any of the
provisions of this chapter. Any person so summoned and examined shall not be liable to prosecution for any violation of this chapter about which he may testify fully and without reservation.

History.—§11, ch. 6933, 1915; RGS 5729; CGL 7954; §§11, 35, ch. 69-106; §26, ch. 73-334.

542.12 Contracts in restraint of trade invalid; exceptions.—

(1) Every contract by which anyone is restrained from exercising a lawful profession, trade or business of any kind, otherwise than is provided by subsections (2) and (3) hereof, is to that extent void.

(2) One who sells the good will of a business, or any shareholder of a corporation selling or otherwise disposing of all of his shares in said corporation, may agree with the buyer, and one who is employed as an agent or employee may agree with his employer, to refrain from carrying on or engaging in a similar business and from soliciting old customers of such employer within a reasonably limited time and area, so long as the buyer or any person deriving title to the good will from him, and so long as such employer continues to carry on a like business therein. Said agreements may, in the discretion of a court of competent jurisdiction be enforced by injunction.

(3) Partners may, upon or in anticipation of a dissolution of the partnership, agree that all or some of them will not carry on a similar business within a reasonably limited time and area.

(4) This section does not apply to any litigation which may be pending, or to any cause of action which may have accrued, prior to May 27, 1968.

History.—§11-4, ch. 28048, 1953.
CHAPTER 543
COMBINATIONS RESTRICTING USE OF MUSICAL COMPOSITIONS

543.01 Monopolies in restraint of trade as to use of copyrighted musical compositions; combinations to fix prices, etc., unlawful.

(1) It is unlawful for authors, composers, publishers, owners, or their heirs, successors or assigns, of copyrighted vocal or instrumental musical compositions to form any society, association, partnership, corporation or other group or entity, called herein a combination, when the members therein constitute a substantial number of the persons within the United States who own or control copyrighted vocal or instrumental and musical compositions, and when one of the objects of such combination is the determination and fixation of license fees or other exactions required by such combination for itself or its members or other interested parties for any use or rendition of copyrighted vocal or instrumental musical compositions for private or public performance for profit.

(2) The collection or attempted collection of such license fee or other exaction so fixed and determined by any member, agent, or representative of such combination from any person within this state, including theatres, radio receiving, radio broadcasting and radio broadcasting stations, moving picture houses, hotels, restaurants, clubs, dance halls, recreation rooms, pavilions, colleges, universities, churches, or any one who uses music in the conduct of his business, or the officers, directors, proprietors, managers, owners or representatives thereof, who render or cause to be rendered or permit to be rendered such copyrighted vocal or instrumental musical compositions privately or publicly for profit through personal performance, or through radio or any instrumentality of sound producing apparatus is unlawful and illegal.

(3) The license fees or other exactions by such combination or its agents, members, or interested parties shall not be collected in any court within the boundaries of this state; and the collection or attempted collection of such license fee or other exaction by such combination or its agents, members or interested parties, shall be a separate offense hereunder; and any such combination of authors, composers or publishers, or their heirs, successors or assigns, is declared to be an unlawful monopoly in this state, and the fixing of prices or exactions for use or rendition of copyrighted musical compositions and the collecting or
attempting to collect such license fees or other exactions by it or for its members or other interested parties, is declared illegal and in restraint of trade; and such collection or attempted collection is declared to be an intrastate transaction within this state, and shall be subject to the terms and penalties of this chapter.

History.—§11, ch. 20868, 1941.

543.02 Common law rights abolished.—When any phonograph record or electrical transcription, upon which musical performances are embodied, is sold in commerce for use within this state, all asserted common law rights to further restrict or to collect royalties on the commercial use made of any such recorded performances by any person are hereby abrogated and expressly repealed. When such article or chattel has been sold in commerce, any asserted intangible rights shall be deemed to have passed to the purchaser upon the purchase of the chattel itself, and the right to further restrict the use made of phonograph records or electrical transcriptions, whose sole value is in their use, is hereby forbidden and abrogated.

History.—§12, ch. 20868, 1941.

543.03 Rights under copyright laws unaffected.—Nothing in §543.02 or this section shall be deemed to deny the rights granted any person by the United States copyright laws. The sole intention of this enactment is to abolish any common law rights attaching to phonograph records and electrical transcriptions, whose sole value is in their use, and to forbid further restrictions or the collection of subsequent fees and royalties on phonograph records and electrical transcriptions by performers who were paid for the initial performance at the recording thereof.

History.—§13, ch. 20868, 1941.

543.04 Construction of law as to resale, fixing price, etc.—Nothing in §§543.04-543.18 shall be construed to give to any purchaser of copyrighted musical compositions, as herein provided, the right to resell, copy, print, publish or vend the same; nor to prevent authors and composers from determining and fixing the price to be charged for the use or rendition of their copyrighted musical compositions, provided such authors and composers act independently of any such combination as is in §543.01 declared unlawful.

History.—§14, ch. 20868, 1941.

543.041 Unauthorized copying of phonograph records, disc, wire, tape, film or other article on which sounds are recorded.—As used in this section, unless the context otherwise requires:

(a) “Owner” means the person who owns the master phonograph record, master disc, master tape, master film, or other device used for reproducing sounds on phonograph records, discs, tapes, films, or other articles upon which sound is recorded, and from which the transferred recorded sounds are directly or indirectly derived.

(b) “Person” means any individual, partnership, corporation, or association.

(2) It is unlawful:

(a) Knowingly and willfully and without the consent of the owner, to transfer or cause to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with the intent to sell or cause to be sold for profit such article on which sounds are so transferred.

(b) To sell any such article with the knowledge that the sounds thereon have been so transferred without the consent of the owner.

(3) Any person violating any provision of subsection (2) shall be guilty of a misdemeanor of the second degree, punishable as provided in §§775.082 or §§775.083.

(4) This section shall not be construed to diminish the right of parties in private litigation.

History.—§15, ch. 20868, 1941.

543.05 Existing contracts made with unlawful combinations declared void.—All contracts, agreements or licenses now existing within this state, made by any person with any combination declared unlawful under §543.01, void and nonenforceable in any court or within this state, and are declared to have been entered into as intrastate transactions with such unlawful combinations and in restraint of trade. All such contracts, agreements, licenses and the attempted enforcement thereof may be enjoined by any person sought to be bound thereby; and any agent, member or representative of such unlawful combination enforcing or attempting to enforce the terms of such existing contract, agreement or license, shall be guilty of a violation of the terms of this chapter; and for any collection or attempted collection of moneys set out in the illegal contract, agreement or license, shall be subject to the penalties of §543.18.

History.—§16, ch. 20868, 1941.

543.06 Broadcasts by radio stations within state.—Any person who owns, leases, operates or manages a radio broadcasting, radio receiving or radio rebroadcasting station within this state, may receive, broadcast and rebroadcast copyrighted vocal or instrumental musical compositions, the copyrights of which are owned or controlled by any combination declared unlawful by §543.01, without the payment, to such combination or to its agents, representatives or assigns, of any license fee or other exaction declared illegal and non-collectible by the terms hereof.

History.—§17, ch. 20868, 1941.

543.07 Radio stations within state affiliated with stations outside of state using compositions.—
(1) When a radio receiving, radio broadcasting or radio rebroadcasting station is affiliated with any person owning, leasing or operating a radio broadcasting station outside this state from whence copyrighted vocal or instrumental musical compositions originate or emanate, and which are received, used, broadcast or rebroadcast within this state, in accordance with the terms of any affiliation agreement or other contract, then such person owning, leasing, operating or managing a radio broadcasting station outside this state, is prohibited from in any manner charging or attempting to charge, or collecting or attempting to collect, from any person who owns, leases, operates, or manages a radio broadcasting, radio receiving or radio rebroadcasting station within this state, any herein declared noncollectible license fee or other exaction, for the purpose of paying or repaying the same outside this state to any combination, or its members, stockholders or other interested parties, declared unlawful by §543.01.

(2) Any person collecting or attempting to collect such license fee or other exaction against such persons within this state for the purpose of paying or reimbursing itself for having paid such license fee or other exaction herein declared unlawful and noncollectible, shall be deemed guilty of a violation of the provisions of this chapter, and the person from without this state is declared to be an agent and representative of such combination as declared illegal and unlawful by §543.01 and shall be subject to all the penalties hereof.

History.—§5A, ch. 17807, 1937; CGL 1940 Supp. 7954(7).

543.08 Use of compositions by theater, etc., where unlawfully restricted.—Any person who owns, operates, or manages any theater, moving picture houses, or a similar place for amusement and public performance within this state, may receive, use and render, or cause to be received, used and rendered, by the personal performance of artists, singers, instrumentalities or apparatus, or by electrical transcriptions, or by any other means of rendition whatsoever, copyrighted vocal or instrumental musical compositions, the copyrights of which are owned or controlled by any combination declared unlawful by §543.01 without the payment, to such combination, or to its agents, representatives or assigns, of any license fee or other exaction declared illegal and noncollectible by the terms of this chapter.

History.—§5A, ch. 17807, 1937; CGL 1940 Supp. 7954(8).

543.09 Theaters, etc., using compositions of concerns outside of state.—

(1) When such theater, moving picture house, or other place for amusement or performance is affiliated or under contract in any manner whatsoever with any person furnishing in any form or manner copyrighted musical compositions from outside this state, or supplying such persons in this state with radio broadcasts or electrical transcriptions, sound production instrumentalities or apparatus, or artists, performers, musicians, singers, players, orchestras, bands or other artists or talent, wherein or whereby copyrighted vocal or instrumental musical compositions originate or emanate and which are received, used, broadcast or rebroadcast within this state, in accordance with the terms of any affiliation agreement or other contract, then such person owning, leasing, operating or managing a theater, moving picture house, or other place for amusement and public performance within this state, is prohibited from in any manner charging or attempting to charge, or collecting or attempting to collect, from any person who owns, leases, operates or manages such theater, moving picture house, or other place for amusement or public performance within this state, any license fee or other exaction for the purpose of paying or repaying the same to any combination declared unlawful by §543.01 for the use, rendition or performance of such copyrighted musical compositions.

(2) Any person collecting, or attempting to collect, such license fee or other exaction from outside this state against such persons within this state for the purpose of paying or reimbursing itself for having paid any such license fee or other exaction herein declared unlawful and noncollectible, shall be deemed guilty of a violation of the provisions of this chapter, and such person from without this state is declared to be an agent and representative of such combination declared illegal and unlawful by §543.01 and shall be subject to all the penalties hereof.

History.—§5B, ch. 17807, 1937; CGL 1940 Supp. 7954(9).

543.10 Contract with the owners or agents of theaters.—Combination of persons owning or controlling a radio broadcasting station outside this state, having the right to contract with theater owners in the state for the sale of the public performance rights of the music owned or controlled by said combination, despite the provisions of this chapter, provided, however, this section shall not relieve any such combination from any taxes or fees levied by this chapter, nor any provisions relating to filing contracts and other information thereunder.

History.—§1, ch. 20991, 1941.

543.11 Representatives of unlawful combinations; service of process.—Any person within this state who shall act as the representative of any combination declared unlawful in §543.01, shall, for the purpose of this chapter, be deemed an official representative and agent of such unlawful combination and shall be construed to be doing business within this state, and service of any process against such combination may be had upon such representative or the agent of such representative. When so served, such process shall have the same legal effect as if served upon a duly elected officer or managing agent or other official representative upon whom service might otherwise be made upon such combination within this state.

543.12 Collectors of license fees considered part of unlawful combinations.—Any person who negotiates for, or collects, or attempts to collect license fees or other exactions, or who acts as the representative or agent for any combination declared unlawful in §§543.01-543.18, shall, for the purpose of this chapter, be considered as a part of said unlawful combinations; and such person shall be subject to all the penalties in this chapter provided for violations thereof.

History—57B, ch. 17807, 1937; CGL 1940 Supp. 7964(12).

543.13 Injunctions to restrain violations.—The several circuit courts of this state shall have jurisdiction to prevent and restrain violations of §§543.01-543.18, and, on the complaint of any party aggrieved because of the violation of any of the terms of §§543.01-543.18 anywhere within this state, the state attorneys in their respective circuits, under the direction of the department of legal affairs, shall institute proceedings, civil or criminal or both, under the terms hereof against any combination as defined in §543.01, against any of its members, agents or representatives, to enforce any of the rights herein conferred, and to impose any of the penalties herein provided, or to dissolve any such combination. In civil actions such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order as shall be deemed equitable.

History—49, ch. 17807, 1937; CGL 1940 Supp. 7964(13); §§11.35, ch. 69-106.

543.14 Persons aggrieved authorized to sue.—Any person in this state aggrieved by reason of anything forbidden in §§543.01-543.18, may sue therefor in any circuit court in the circuit in which the violation or a part thereof took place, to recover any damages assessed as a result of the violation of the terms of §§543.01-543.18, and shall be entitled to recover his costs, including reasonable attorney's fees to be fixed by the court in such action.


543.15 Civil suits by parties aggrieved.—In the event of the failure of the state attorney and department of legal affairs to act promptly, when requested so to do by any aggrieved party, then such party may institute a civil proceeding in his own behalf, or upon behalf of plaintiff and others similarly situated, as the state attorney and the department of legal affairs could have instituted under the terms of this chapter.

History—10B, ch. 17807, 1937; CGL 1940 Supp. 7964(15); §§11.35, ch. 69-106.

543.16 Petition requiring defendant to produce records, etc.—In any proceeding brought under the terms of §§543.01-543.18, any attorney of record for the plaintiff may file with the clerk of the court in which such action is pending, a petition praying that the defendant shall be required to file with the clerk of said court, exact copies of all documentary evidence, records or data in the possession or under the control of said defendant pertaining to the issues as alleged by the plaintiff in the cause; and the circuit court, upon the presentation to it of such petition, shall determine what part, or all, or any of such evidence shall be produced, and enter an order to that effect. A copy of such order shall be mailed to each defendant at his last known address, which shall be deemed sufficient notice and service upon such defendant; or, the same may be served by mail in the same manner upon the attorney of record for the defendant, and this shall be deemed sufficient notice and service upon said defendant.


543.17 Failure of defendant to file records, etc.; penalty.—If said defendant shall fail to file with the clerk of the court in which such action is pending said copy of documentary evidence, records or data, and within the time provided in said order, the court shall adjudge such defendant guilty of contempt and shall assess a fine of one hundred dollars against the defendant for each day that such defendant fails to comply with said order, and judgment shall be entered accordingly. The plaintiff may collect the same against the defendant with interest thereon and costs, including a reasonable attorney's fee. The court shall determine when the judgment is rendered what disposition shall be made of the proceeds collected after the payment of costs and attorney's fees.


543.18 Penalty for violations of §§543.01-543.17.—Any combination as in §543.01 declared to be unlawful, and any other person acting or attempting to act within this state in violation of the terms of §§543.01-543.17, or any representative or agent of any person who aids or attempts to aid any unlawful combinations as defined in §543.01, in the violation of any of the terms of §§543.01-543.17, in any manner whatsoever, shall be guilty of a felony of the third degree, punishable as provided in §§775.082, §§775.083, or §§775.084.

History—58, ch. 17807, 1937; CGL 1940 Supp. 7964(20); §532, ch. 77-106.

543.19 Public performance rights in copyrighted musical compositions, etc.; definitions.—As used in §§543.19-543.35, "person" means an individual, resident or nonresident, of this state, and every domestic or foreign or alien partnership, society, association or corporation; the words "performing rights" refer to "public performance for profit"; the word "user" means any person who directly or in-
543.20 Conditions under which sale of performing rights may be made.—It is unlawful for any person to sell, license the use of, or in any manner whatsoever dispose of, in this state, the performing rights in any or to all musical composition or dramatico-musical composition which has been copyrighted, and is the subject of a valid existing copyright, under the laws of the United States, or to collect any compensation on account of any such sale, license, or other disposition, unless such person:

(1) Shall first have filed with the department of banking and finance a list describing each musical composition or dramatico-musical composition, the performing rights in which said person intends to sell, license or otherwise dispose of in this state, which description shall include the following: The name and title of the copyrighted composition, the date of the copyright, the name or other identifying symbol given thereto in the United States copyright office, the name of the author, the name of the publisher, the name of the present owner of the copyright to said composition, and the name of the present owner of the performing rights thereto. Additional lists of such copyrighted compositions may be filed by any such person from time to time, and shall be subject to all the provisions of this chapter. A filing fee of two cents a composition shall be required by the department of banking and finance for filing any list under this chapter.

(2) Shall simultaneously file an affidavit with the department which shall describe the performing rights to be sold, licensed or otherwise disposed of and shall state that the compositions so listed are copyrighted under the laws of the United States, that the facts contained in the list to which said affidavit relates are true, that said person has full authority to sell, license or otherwise dispose of the performing rights in such composition. The affidavit shall set forth the name, age, occupation and residence of the affiant; and if an agent, the name, occupation and residence of his principal.

(3) Any copyright owner may at his election fix one price which shall be applicable to such compositions in this state which may be fully advised concerning the performing rights therein, and avoid being overreached by false claims of ownership of any such compositions, do not combine together in any manner, directly or indirectly, for the purpose of issuing blanket licenses for the public performance for profit of their combinations upon a blanket royalty or fee covering more than one, or all, of such compositions owned or controlled by the members of such association unless each individual copyright owner included in such association, or such association in behalf of each individual copyright owner, also shall make available to each user of such composition within the state, at the option of the user, the right to perform publicly for profit each such copyrighted musical composition owned by him at a price established for each separate performance of each such composition.

543.22 Unlawful combinations.—(1) It is unlawful for two or more owners of the copyrights of musical compositions or dramatico-musical compositions to associate or combine together in any manner, directly or indirectly, for the purpose of issuing blanket licenses for the public performance for profit of their combinations upon a blanket royalty or fee covering more than one, or all, of such compositions owned or controlled by the members of such association unless each individual copyright owner included in such association, or such association in behalf of each individual copyright owner, also shall make available to each user of such composition within the state, at the option of the user, the right to perform publicly for profit each such copyrighted musical composition owned by him at a price established for each separate performance of each such composition.

(2) To this end, there shall be filed with the department of banking and finance, either as a part of the list required by §543.20 or as a separate document by such copyright owner, a schedule of prices for the performing rights to each separate performance for profit of each composition contained in such list, together with an affidavit of the copyright owner of such compositions that the price so stated has been determined by such copyright owner acting for himself and not either directly or indirectly in concert or by agreement with the owner of any other copyrights. Such schedule of prices may contain reasonable classifications determined by use and function, or either, of the users of said compositions, with separate price for each classification; provided, that there is equal treatment of all persons within each classification and that there is no unreasonable discrimination between classifications.

(3) Any copyright owner may at his election fix one price which shall be applicable to
each rendition of each of such compositions owned by him except to the extent that he elects to name specific compositions and to fix other prices for each rendition thereof; and said prices shall remain in force and effect until a new schedule of prices with respect to the performing rights to such compositions has been similarly filed in the office of the department of banking and finance, at any time, at the election of such owner, changes in prices to become effective seven days from the date of filing thereof. The schedule of prices provided for herein shall be made available by the department to all persons for examination and the taking of copies, and may be published by him in the same manner as provided in §543.21.

History.—§44, ch. 19653, 1939; CGL 1940 Supp. 7954(24); §112.25, ch. 69-106.

543.23 Blanket license.—Any person issuing a blanket license for performance rights shall file with the department of banking and finance within thirty days from the date such blanket license is issued, a true and complete copy of each such license issued or sold with respect to performance within this state, together with the affidavit of such person that such copy is a true and complete copy of the original and that it sets forth each and every agreement between the parties thereto with respect to such performing rights. The department shall charge for filing such contracts the same fee allowed clerks of the circuit court for similar services.

History.—§44, ch. 19653, 1939; CGL 1940 Supp. 7954(25); §112.25, ch. 69-106.

543.24 Charge for performance rights based on program not containing copyrighted compositions.—It is unlawful for any person selling, licensing the use of or in any manner whatsoever disposing of or contracting to dispose of, in this state, the performing rights in or to any musical composition or dramatico-musical composition, to make any charge or to contract for or collect any compensation as a condition of using said performing rights based in whole or in part on any program not containing any such composition, and any such charge or contract for compensation shall be void and of no effect to the extent that it is based and computed upon a program in which such composition is rendered.

History.—§44C, ch. 19653, 1939; CGL 1940 Supp. 7954(26).

543.25 Charge for performance rights on unlisted compositions.—It is unlawful for any person selling, licensing the use of or in any manner whatsoever disposing of or contracting to dispose of in this state public performing rights in or to any musical composition or dramatico-musical composition to make any charge or to contract for or collect any compensation for the use or performance of any such composition that has not been listed with the department of banking and finance as provided in §543.20.

History.—§44D, ch. 19653, 1939; CGL 1940 Supp. 7954(27); §112.25, ch. 69-106.

543.26 Department of state to accept service of process on owner.—At the time of filing the information required in §§543.20, 543.21, the owner of said performing rights shall execute and deliver to the department of state on a form to be furnished by the department of state, an authorization empowering the department of state to accept service of process on such person in any action or proceeding, whether cognizable at law or in equity, arising under this chapter, and designating the address of such person until the same shall be changed by a new form similarly filed. Service of process may thereafter be effected in this state on such person in any action or proceeding by serving the department of state with duplicate copies of such process; and immediately upon receipt thereof the department of state shall mail one of the duplicate copies by registered mail to the address of such person as stated on authorization last filed by him. A filing fee of five dollars shall accompany this notice and the department of state shall deposit same in the regulatory trust fund of the state.

History.—§3, ch. 19653, 1939; CGL 1940 Supp. 7954(28); §10, 35, ch. 69-106; §96, ch. 73-333.

543.27 Actions with respect to performing rights; prerequisites.—

(1) No person may commence or maintain any action or proceeding in any court with respect to such performing rights, or collect any compensation on account of any sale, license or other disposition of such performing rights, in this state, except upon pleading and proving compliance with the provisions of §§543.19-543.35.

(2) Copies, certified by the department of banking and finance as such, of the lists, license agreements, affidavits and other documents filed with the department pursuant to the requirements of §§543.19-543.35, shall be furnished by the department to any person upon request at the prices regularly charged by a clerk of the circuit court for such work. Such certified copies shall be admitted in evidence in any action or proceeding in any court to the same extent as the original thereof.

History.—§16, ch. 19653, 1939; CGL 1940 Supp. 7954(29); §112.25, ch. 69-106.

543.28 Gross receipts tax; authority of department of banking and finance.—

(1) There is levied, and there shall be collected, a tax, for the act or privilege of selling, licensing, or otherwise disposing of performing rights in compositions in this state, in an amount equal to three per cent of the gross receipts of all such sales, licenses or other dispositions of performing rights in this state, payable annually to the department of banking and finance on or before the fifteenth day of March of each year, in respect to the gross receipts of the preceding calendar year. A return on a form prescribed by the depart-
ment shall be made by all persons subject to
this tax on or before the fifteenth day of March
of every year which shall accompany a re-
mittance of the tax due.

(2) The department, through its autho-
rized agents, may examine and audit the books
and records of any person it may deem subject
to the tax or fees under this chapter after giving
thirty days’ notice to such person through
such person’s authorized agent. The department
of finance, at the place where records of such
persons are maintained, the books and records
relating to transactions taxed under this sec-
tion. Upon failure or refusal to so produce the
records for examination, the same shall be
subject to an order to produce at the office of
the department in the capitol for examination
and audit. The order to produce shall be served
by an agent of the department or by any officer
authorized by law to serve process, and shall
require production in not less than thirty nor
more than sixty days from the date of service,
in the same manner as a subpoena duces tecum.
Refusal to obey such subpoena or order to pro-
duce may be punished in the circuit court where
the order was served as for a civil contempt of
court upon petition duly filed by the department.
Investigations and examinations shall not be
made more often than once during a year unless
the department has reason to believe that such a
person is not complying with the provisions of
this chapter. The expenses of the department
incurred in each examination of a person under
this section shall be paid by the person examined
within thirty days after demand therefor by the
department, and shall not exceed fifty dollars
per day for each eight hour man-day for time
actually consumed in making the examination
plus the traveling expense and per diem sub-
sistence allowance provided for state employees
in §112.051. Expense thus recovered shall be
deposited in the state treasury as a reimburse-
ment to the appropriation for expenses incurred
in enforcing this section. No person shall be
required to pay a per diem fee or expenses for
that part of the duration of an examination
which exceeds thirty man-days in any one year
unless the examination or investigation is due to
fraudulent practices of the person, in which case
the person shall be required to pay the entire cost
regardless of time consumed.

(3) The department of banking and finance
through its authorized agents may examine and
audit the books, records and accounts of any
licensee or user making payments for use of
public performing rights in the state to any
person in order that the department may de-
termine or check on gross receipts of those sel-
ing or licensing public performing rights
in the state. Any person refusing the department
or its duly authorized agents access to such
books, records and accounts shall be subject to
penalties prescribed in §543.35 and may be re-
quired to appear in person with all books, pa-
pers and accounts required by the department
at its office in the capitol, within ten days after
receipt of notice which the department shall
send by “registered mail, return receipt re-
quested.”

(4) Should the department of banking and
finance determine that any person liable for
any tax or fees under this chapter has made an
incorrect return or has made no return at all,
or has failed to pay any tax or fees due, the de-
partment shall after determining the amount of
such tax or fees due, serve upon the person
the order to produce and request the person
by an agent of the department or by any officer
authorized by law to serve process, and shall
require production in not less than thirty nor
more than sixty days from the date of service,
in the same manner as a subpoena duces tecum.
Refusal to obey such subpoena or order to pro-
duce may be punished in the circuit court where
the order was served as for a civil contempt of
court upon petition duly filed by the department.
Investigations and examinations shall not be
made more often than once during a year unless
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person is not complying with the provisions of
this chapter. The expenses of the department
incurred in each examination of a person under
this section shall be paid by the person examined
within thirty days after demand therefor by the
department, and shall not exceed fifty dollars
per day for each eight hour man-day for time
actually consumed in making the examination
plus the traveling expense and per diem sub-
sistence allowance provided for state employees
in §112.051. Expense thus recovered shall be
deposited in the state treasury as a reimburse-
ment to the appropriation for expenses incurred
in enforcing this section. No person shall be
required to pay a per diem fee or expenses for
that part of the duration of an examination
which exceeds thirty man-days in any one year
unless the examination or investigation is due to
fraudulent practices of the person, in which case
the person shall be required to pay the entire cost
regardless of time consumed.

543.29 Unlawful to publicly perform com-
positions without owner’s consent.—It is un-
lawful for any person, without the consent of
the owner thereof, if said owner shall have
complied with the provisions of this chapter,
publicly to perform for profit, in this state,
any such composition, or for any person know-
ingly to participate in the public performance
for profit of such composition, or any part
thereof.

History.—$7, ch. 19653, 1939; CGL 1940 Supp. 7954(31).

543.30 Illegal collection of license fees, etc.
—Any person who negotiates, collects or at-
tempts to collect license fees or other exactions or acts in any capacity whatsoever as a representative or agent for any person owning public performing rights of any copyrighted composition shall be subject to all the penalties in this chapter provided for violations thereof.

History.—§10, ch. 19653, 1939; CGL 1940 Supp. 7964(32).

543.31 Suit by party aggrieved for violations.—Any person in this state aggrieved by reason of any violation of this chapter may sue in the circuit court of the county in which he resides or of the county in which the violation took place to recover any damages as the result of the violation of the terms of §§543.19-543.34, or to require specific performance under the provisions of §§543.19-543.34, and shall be entitled to recover his costs, including reasonable attorney's fees to be fixed by the court.

History.—§11, ch. 19653, 1939; CGL 1940 Supp. 7954(33).

543.32 Injunction to restrain violations.—The several circuit courts of this state shall have jurisdiction to prevent and restrain violations of §§543.19-543.34, and, on the complaint of any party aggrieved because of the violation of any of the terms of said sections anywhere within this state, the state attorneys in their respective circuits, under the direction of the department of legal affairs shall institute proceedings, civil or criminal or both under the terms hereof, to enforce any of the rights herein conferred, and to impose any of the penalties herein provided. In civil actions such proceeding may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order as shall be deemed equitable.

History.—§12, ch. 19653, 1939; CGL 1940 Supp. 7954(34); §11, 35, ch. 69-106.

543.33 Suit by aggrieved party in own behalf.—In the event of the failure of the state attorney and the department of legal affairs to act promptly, as herein provided, when requested so to do by any aggrieved party, then such party may institute a civil proceeding in his own behalf, or upon behalf of plaintiff and others similarly situated, as the state attorney and the department of legal affairs could have instituted under the terms of this chapter.

History.—§13, ch. 19653, 1939; CGL 1940 Supp. 7954(35); §§11, 35, ch. 69-106.

543.34 Costs and expenses; appropriations.—Sufficient moneys shall be appropriated for payment of the costs and expenses of enforcing this chapter and all taxes and fees levied and collected shall be paid into the regulatory trust fund under the Division of Finance of the department of banking and finance.

History.—§14, ch. 19653, 1939; CGL 1940 Supp. 7954(36); §131, ch. 26869, 1951; §138, ch. 71-355; §3, ch. 73-326.

543.35 Penalty for violations of §§543.19-543.34.—Any violation of §§543.19-543.34, shall constitute a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

History.—§15, ch. 19653, 1939; CGL 1940 Supp. 7954(37); §3, ch. 73-136.

543.36 Application of chapter.—None of the provisions of this chapter, except §543.28, shall apply to any combination, or to any composer, author or publisher who is a member of any combination, which licenses the right of public performance for profit of copyrighted musical compositions under the terms of a judgment in a federal antitrust action in which the United States is a party and pursuant to which the federal court in which such judgment is entered retains continuing jurisdiction.

History.—§2, ch. 72237.
CHAPTER 544

COMBINATIONS AGAINST FLORIDA MEATS

544.01 Certain combinations against public policy.
544.02 Forfeiture of charter.
544.03 Jurisdiction of circuit court.

544.01 Certain combinations against public policy.—Every arrangement, contract, agreement, trust or combination between persons made with a view to, or tending to prevent, hinder or obstruct the lawful sale in this state, or any place therein, of beef or other fresh meat of cattle or any other edible animal raised, fattened or fed in the state, or any other beef or fresh meat, or with a view to, or tending to prevent, hinder or obstruct the lawful sale of any cattle or other edible animal in this state, or any place therein, or which shall tend to monopolize or control the sale or price of beef or other fresh meat in this state, or any place therein, is declared to be against public policy.

History.—14, ch. 4534, 1897; GS 3166; RGS 4986; CGL 7075.

cf.—§544.01 et seq., Combinations in restraint of trade.

544.02 Forfeiture of charter.—Any corporation chartered under the laws of this state, which shall violate any of the provisions of §544.01, shall forfeit its charter and franchises, and its corporate existence shall terminate upon cease. Every foreign corporation which shall violate any of the provisions of §544.01 is prohibited from doing business in this state. The department of legal affairs shall enforce this provision by due process of law.

History.—12, ch. 4534, 1897; GS 3161; RGS 4987; CGL 7076; §544.01 et seq., Combinations in restraint of trade.

544.03 Jurisdiction of circuit court.—The circuit courts of this state are given jurisdiction in chancery, and shall restrain or enjoin any violation of this chapter in their respective circuits, and shall restrain or enjoin any raising or lowering the price of beef or other fresh meat in any place in such several circuits with intent to or tending to prevent, hinder or obstruct the sale of beef or other fresh meat of cattle or any other edible animal raised, fattened or fed in the state, or any other beef or fresh meat, or with intent to or tending to prevent, hinder or obstruct the lawful sale of any cattle or other edible animal in any such place.

History.—14, ch. 4534, 1897; GS 3162; RGS 4988; CGL 7077.

544.04 Duty of state attorney.—The state attorneys shall institute and prosecute all proper suits in their respective circuits in the name of the state to enforce this chapter. Any citizen of this state also may institute and prosecute suit in his own name to enforce this chapter. In case decree shall be rendered in the circuit court in favor of the plaintiff, whether the state or an individual, the court may decree that the defendant or defendants pay a reasonable fee in the cause for the state attorney or plaintiff's solicitor therein. Nothing herein contained shall operate or be construed to deprive any person of any right to any damages, or of any remedy to recover damages which such person would have without this chapter in or about matter mentioned or included in this chapter.

History.—14, ch. 4534, 1897; GS 3163; RGS 4989; CGL 7078.

544.05 Compelling testimony of witnesses.

—No person shall be excused from attending and testifying, or from producing books, papers, contracts, agreements and documents on subpoena for the state, or as witness for the state, or on cross-examination for the state, in any prosecution, suit or proceeding, criminal or civil, authorized by or based upon this chapter or growing out of any violation thereof, when such prosecution, suit or proceeding is in the name of the state and prosecuted or carried on by the department of legal affairs or state attorney, for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate him or subject him to a penalty or forfeiture. But no such person shall be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter or thing concerning which he may so testify or produce evidence; provided, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

History.—15, ch. 4534, 1897; GS 3164; RGS 4990; CGL 7079; §775.082 or §775.083.

544.06 Combinations against Florida meats; penalty.—Any violation of any provisions of law relating to combinations against the sale of Florida meat is declared to be destructive of free competition and a conspiracy against trade, and any person who may engage in such conspiracy, or who shall, as principal, manager, director or agent, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates or orders made in furtherance of such conspiracy, shall be guilty of a misdemeanor of the first degree, punishable as provided in §775.082 or §775.083.

History.—15, ch. 4534, 1897; GS 3516; RGS 5402; CGL 7543; §534, ch. 71-136.
CHAPTER 545

COMBinations Restricting Financing of Motor Vehicles

545.01 Definitions of terms used in chapter.
(1) The term "person" as used in this chapter means any individual, firm, corporation, partnership, association, trustee, receiver or assignee for the benefit of creditors.
(2) The terms "sell," "sold," "buy" and "purchase," as used in this chapter, include exchange, barter, gift, and offer to contract to sell or buy.
(3) The term "manufacturer" means any person engaged, directly or indirectly, in the manufacture of motor vehicles.
(4) The term "wholesale distributor" means any person engaged, directly or indirectly, in the sale or distribution of motor vehicles to agents or to dealers.
(5) The term "dealer" means any person who is engaged in, or who intends to engage in the business of selling motor vehicles at retail in this state. The term "dealer" shall also include "retail agent."
(6) The term "finance company" means any person engaged in the business of financing the sale of motor vehicles, or engaged in the business of purchasing or acquiring conditional bills of sale, or promissory notes, either secured by vendor's lien or chattel mortgages, or arising from the sale of motor vehicles in this state.

545.02 Contracts designating finance company through which sale of motor vehicle to be financed declared void.—It is unlawful for any manufacturer or wholesale distributor of motor vehicles to sell or contract for the sale of any motor vehicle to any motor vehicle dealer on the condition, or with the agreement or understanding, expressed or implied, that such dealer shall in any manner finance the purchase or sale of any one or number of motor vehicles only through a designated finance company or shall sell and assign the conditional sales contracts or chattel mortgages or other paper arising from the sale of motor vehicles or any one or number thereof only to a designated finance company, when the effect of the condition, agreement or understanding so entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the finance company who is designated, by virtue of such condition, agreement or understanding to finance the purchase or sale of motor vehicles, or to purchase such conditional sales contract, chattel mortgages or other paper, and any such condition, agreement, or understanding is declared to be void and against the public policy of this state.

545.03 Threats by manufacturer or wholesaler as prima facie evidence of intent to violate law.—Any threat, expressed or implied, made directly or indirectly to any motor vehicle dealer, by any manufacturer, or wholesale distributor on authority or with the knowledge of any such manufacturer, or wholesale distributor, that such person will discontinue to sell, or will terminate a contract to sell motor vehicles to such dealer unless such dealer finances the purchase or sale of motor vehicles only with or through a designated finance company or sells and assigns the conditional sales contracts, chattel mortgages, or other paper arising from his retail sales of motor vehicles only to a designated finance company, shall be prima facie evidence of the fact that such manufacturer or wholesale distributor has sold or intends to sell motor vehicles, on the condition or with the agreement or understanding prohibited in §545.02.

545.04 Threats by finance company presumed to be made by manufacturer or wholesaler.—Any threat, express or implied, made directly or indirectly to any motor vehicle dealer by any finance company or agent thereof, who is affiliated with or controlled by any manufacturer or wholesale distributor of motor vehicles, that such manufacturer or wholesale distributor will terminate his contract

545.05 Paying or giving anything to finance company to lessen competition prohibited.

545.06 Acceptance of anything of value by finance company resulting in lessening competition prohibited.

545.07 Acceptance of benefits by finance company for purpose of lessening competition prohibited.

545.08 Department of legal affairs or state attorney to institute suit upon violation of law.

545.09 Department of legal affairs to enjoin violations by foreign corporations; revocation of license by department of state.

545.10 Contract in violation of law declared void.

545.11 Remedy for persons injured by violation of law.

545.12 Penalties for violations of chapter.
with or cease to sell motor vehicles to such
dealer unless such dealer finance the purchase
or sale of motor vehicles only with or through
a designated finance company or sells and as-
signs the conditional sale contracts, chattel
mortgages, or other paper arising from his
retail sales of motor vehicles only to a design-
ated finance company, shall be presumed to
be made at the direction of and with the au-
thority of such manufacturer or wholesale dis-
tributor of motor vehicles, and shall be prima
facie evidence of the fact that such manufac-
turer or wholesale distributor of motor ve-
hicles has sold or intends to sell motor ve-
hicles on the condition or with the agreement or
understanding prohibited in §545.02.
History.—14, ch. 18031, 1937; CGL 1940 Supp. 4151(465).

545.05 Paying or giving anything to finance
company to lessen competition prohibited.—It
is unlawful for any manufacturer or wholesale
distributor of motor vehicles, to pay or give, or
contract to pay or give any thing or service of
value to any finance company if the effect of
any such payment or the giving of any such
thing or service of value may be to lessen or
eliminate competition, or tend to create or
create a monopoly in the finance company
which receives or accepts such thing or service
of value.
History.—14, ch. 18031, 1937; CGL 1940 Supp. 4151(466).

545.06 Acceptance of anything of value by
finance company resulting in lessening compe-
tition prohibited.—It is unlawful for any fin-
ance company to accept or receive, or contract
or agree to accept or receive, either directly or
indirectly, any payment, thing or service of
value from any manufacturer or wholesale dis-
tributor of motor vehicles, if the effect of the
acceptance or receipt of any such payment,
thing, or service of value may be to lessen or
eliminate competition, or to create or tend to
create a monopoly in the person who ac-
quires the same.
History.—15, ch. 18031, 1937; CGL 1940 Supp. 4151(467).

545.07 Acceptance of benefits by finance
company for purpose of lessening competition
prohibited.—It is unlawful for any finance
company who accepts or receives, either di-
rectly or indirectly, any payment, thing, or ser-
vice of value, as set forth in §545.06, or contracts,
either directly or indirectly, to receive any
such payment or thing or service of value, to
thereafter finance or attempt to finance the
purchase or sale of any motor vehicle or buy
or attempt to buy any conditional sales con-
tacts, chattel mortgages or other paper on
motor vehicles sold at retail in this state.
History.—15, ch. 18031, 1937; CGL 1940 Supp. 4151(468).

545.08 Department of legal affairs or state
attorney to institute suit upon violation of law.
—For a violation of any of the provisions of
this chapter any corporation mentioned here-
in, the department of legal affairs or the state
attorney of the proper county shall institute
proper suits or quo warranto proceedings in
any court of competent jurisdiction for the for-
sue or dissolution of the same under the
general statutes of the state.
History.—17, ch. 18031, 1937; CGL 1940 Supp. 4151(469); §15,
35, ch. 49-106.

545.09 Department of legal affairs to enjoin
violations by foreign corporations; revocation
of license by department of state.—Every for-
35, ch. 69-106.

545.10 Contract in violation of law declared
void.—Any contract or agreement in violation of
the provisions of this chapter shall be void
and shall not be enforceable either in law or
equity.
History.—110, ch. 18031, 1937; CGL 1940 Supp. 4151(470); §15,
35, ch. 49-106.

545.11 Remedy for person injured by vio-
lation of law.—In addition to the criminal
and civil penalties herein provided, any person
who is injured in his business or property by
any other person, by reason of anything for-
bidden or declared to be unlawful by this
chapter, may sue therefor in any court having
development thereof in the county where the
defendant resides or is found, or any agent
resides or is found, or where service may be
obtained, and recover two- or threefold the damages
sustained by him, and the costs of suit. When
it shall appear to the court before whom any
proceeding under this chapter is pending, that
the ends of justice require that other parties
be brought before the court, the court may
cause them to be made parties defendant and
summoned, whether they reside in the county
where such action is pending, or not.
History.—112, ch. 18031, 1937; CGL 1940 Supp. 4151(471).

545.12 Penalty for violations of chapter.—
Any person who violates any of the provisions
of this chapter, any person who is a party to
any agreement or understanding, or to any
contract prescribing any condition prohibited
by this chapter, and any employee, agent, or
officer of any such person, who shall partici-
pate, in any manner, in making, executing,
performing or in urging, aiding or
abetting in the performance of any such con-
tact, condition, agreement or understanding
and any person who pays or gives or contracts
to pay or give any thing or service of value
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prohibited by this chapter, and any person who receives or accepts or contracts to receive or accept any thing or service of value prohibited by this chapter, shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

History.—§9, ch. 18031, 1937; CGL 1940 Supp. 8135(39); §535, ch. 71-136.
548.01 Prize fighting, pugilistic exhibitions; penalty.

548.02 Second, stakeholder, etc.; penalty.

548.01 Prize fighting, pugilistic exhibitions; penalty.—Any person who shall voluntarily engage in any pugilistic exhibition, fight or encounter, with or without gloves, for money or anything of value, or upon the result of which any money or anything of value is to be collected, acquired, bet or wagered, or to see which any admission fee is charged, directly or indirectly, shall be guilty of a felony of the third degree, punishable as provided in §775.082, §775.083, or §775.084.

History.—§1, ch. 4402, 1895; GS 3253; RGS 5084; CGL 7186; §1, ch. 71-12; §536, ch. 71-136.

548.02 Second, stakeholder, etc.; penalty.—
(1) Any person who shall act as second, stakeholder, counselor or advisor, or who shall render aid of any such character, for or to the principal or either of them in such exhibition, encounter, or fight shall be deemed a principal in the offense, and shall be punished as prescribed in §548.01.

(2) The sheriff or his deputies, in any county where there is cause to believe that such an encounter or contest is about to occur, shall enter any house or enclosure, or any other place, and arrest, without warrant, any party engaged or about to engage in such contest.

History.—§2, ch. 4402, 1895; GS 3254; RGS 5085; CGL 7187.

548.03 Pugilistic exhibition defined.—By the term “Pugilistic exhibition, encounter or fight, with or without gloves,” as used in this chapter, is meant any voluntary fight or personal encounter, by blows, between two or more persons, for money, prize of any character, points, distinction or fame, or other thing of value, or upon the result of which any money or thing of value is bet or wagered, or for which an admission fee is charged, directly or indirectly; provided, that nothing contained herein or in any law or municipal regulation shall be construed as applying to boxing exhibitions held by and under the auspices of the American legion, disabled American veterans, veterans of foreign wars of the United States, Spanish-American war veterans, or companies or detachments of the Florida national guard, Y. M. C. A., Jaycees, Knights of Columbus, or any college which is a member of any recognized amateur athletic association and the Circulo Cubana club, a charitable organization now in existence, whether an admission fee is charged or not; provided further, that nothing contained herein shall be construed to prohibit any municipality from exercising its police powers to regulate boxing and wrestling exhibitions held under the auspices of the above named organizations.

History.—§3, ch. 4402, 1895; GS 3255; RGS 5086; §1, ch. 12213, 1927; CGL 7188; §1, ch. 14831, 1931; §1, ch. 17179, 1935; §1, ch. 26729, 1951; §1, ch. 57-782; §1, ch. 70-293.

548.04 Physician.—At any boxing, sparring or wrestling match or exhibition permitted under §548.03 there shall be in attendance a duly licensed physician, whose duty it shall be to observe the physical condition of the boxers or wrestlers and advise the referee or judges with regard thereto; any competent physician who has not had less than three years experience as a practitioner may be licensed. No boxer or wrestler shall be permitted to enter the ring unless, not more than three hours before, a physician shall certify in writing that the boxer or wrestler is physically fit to engage in the proposed contest. The physician’s fee shall be paid by the licensee conducting the match or exhibition.

History.—§1, ch. 57-154.
CHAPTER 549

AUTOMOBILE RACE MEETS

549.01 Holding automobile race meets; notice to sheriff.-Any persons intending to hold any automobile race meet in any public place within the state shall give notice thereof in writing to the sheriff of the county wherein it is proposed to hold such race meet at least ten days prior to the holding thereof, stating the time when and the place where such race meet is to occur. Notice shall be given to the sheriff of each county into which any such meet shall extend.

History.—§1, ch. 6438, 1906; RGS 2369; CGL 3763.

549.02 Duties of sheriffs.—Every sheriff who shall receive the notice provided for in §549.01, or who shall have other notice or knowledge of the proposed occurrence of any race meet within his county, shall forthwith take such measures as shall be reasonably necessary for the safeguarding of the public and the protection of persons from injury while such race shall be in progress. Every sheriff may appoint a sufficient number of deputies to thoroughly police the course over which such race is to take place, and may designate and maintain the boundaries prescribed for such course by stakes, ropes or otherwise, wherever it may seem necessary.

History.—§2, ch. 6438, 1905; RGS 2360; CGL 3764.

549.03 Sheriff to exclude from course vehicles and persons.—Every sheriff and every deputy appointed by him shall exclude from the course over which any race shall be about to occur, and at least thirty minutes prior to the starting thereof, all animals, vehicles and persons, except those officiating or participating in such race, and their assistants, and shall keep such course free from the intrusion of any animal, vehicle or person, except as above provided, for a period beginning at least thirty minutes prior to the starting of such race and extending during the whole time such race shall be in progress.

History.—§3, ch. 6438, 1905; RGS 2361; CGL 3765.

549.04 Association holding race to pay sheriff’s fees.—Every sheriff and deputy sheriff participating in the policing of any race course, as provided in this chapter, shall receive the sum of two dollars per day during the period in which such races are in progress, which shall be paid by the persons holding the races.

History.—§4, ch. 6438, 1905; RGS 2362; CGL 3766.

549.05 Holding race meet without notice to sheriff; penalty.—Any person participating in any automobile race meet in any public place within this state, when the notice required to be given to the sheriff of the county wherein it is proposed to hold such race meet as required by this chapter has not been given, shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.083.

History.—§5, ch. 6438, 1905; RGS 2364; CGL 7839; §537, ch. 71-136.

549.06 Failure of person to remove from automobile race course; penalty.—Any person, except those officiating or participating in such race, and their assistants, who, upon being requested so to do by the sheriff or deputy sheriff, shall fail or refuse to move beyond the boundaries of the course over which any automobile race is about to occur, or who shall fail or refuse to remove from within such boundaries any animal or vehicle owned or controlled by him, or who shall knowingly enter within such boundaries after being warned therefrom by such sheriff or deputy sheriff, shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.083, and shall be subject to immediate arrest and removal by such sheriff or deputy sheriff.

History.—§6, ch. 6438, 1905; RGS 5645; CGL 7840; §538, ch. 71-136.
### CHAPTER 550

**DOG RACING AND HORSE RACING**

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550.011 Fixing dates for racing.—The Board of Business Regulation shall hear and approve the dates for racing in any county where one or more horse tracks or one or more dog tracks are seeking to race and hold ratified permits upon which any track can operate in any county, apportioning such dates to the several tracks in such counties as provided by law. However, where only one licensed dog track is located in a county, such track may operate ninety days during the racing season at the option of said dog track. No horse tracks licensed to engage in the conduct of running races located within one hundred air miles of another permittee or licensee authorized to conduct either harness races or running races shall be apportioned not more than forty days within the legal horse racing season, which may be the same dates awarded to a permittee or licensee conducting running races. The board shall not delegate this function to any subordinate officer or division of said board.

550.02 The powers and duties of the division of pari-mutuel wagering of the department of business regulation.—The division of pari-mutuel wagering of the department of business regulation shall carry out the provisions of this chapter and supervise and check the making of pari-mutuel pools and the distribution therefrom, and:

(1) Make an annual report to the governor showing its own actions, receipts derived under the provisions of this chapter, the practical effects of the application of this chapter and any suggestions it may approve for the more effective accomplishment of the purposes of this chapter.

(2) Require an oath to each and every applicant by the person or executive officer of the association or corporation, stating that such information contained in the application is true.

(3) Make rules and regulations for the control, supervision and direction of all applicants, permittees and licensees, and for the holding, conducting and operating of all race tracks, race meets, races held in this state; provided, such rules and regulations shall be uniform in their application and effect, and the duty of exercising this control and power is made mandatory upon the division. The division may take testimony concerning any matter within its jurisdiction and issue summons and subpoenas for any witness and subpoenas duces tecum in connection with any matter within the jurisdiction of the division under its seal and signed by the director.

(4) Require of each applicant an application setting forth:

(a) The full name of the person, association or corporation, and if a corporation the name of the state under which the same is incorporated.

(b) If an association or corporation, the nationality, color and residence of the members of the association and the names of the stockholders and directors of the corporation.

(c) The exact location where it is desired to conduct or hold a race meeting.

(d) Whether or not the racing plant is owned or leased, and if leased, the name, color and residence of the lessor owner, or if a corporation, the directors and stockholders thereof; provided, however, that nothing in this chapter shall prevent a person from applying to the division for a permit to conduct races, regardless of whether the racing plant has been constructed or not, and having an election held in any county at the same time when elections are held for the ratification of any permit in said county.

(e) A statement of the assets and liabilities of the person making such application.

(f) The kind of racing to be conducted and the desired period.

(g) Such other information as the division may require.

(5) Require of each applicant a deposit of a sufficient sum, in currency or by check certified by a bank licensed to do business in the state with the county commissioners of the county in which the election is to be held, in an amount necessary to pay all expenditures in connection with the holding of the election mentioned in §550.06.

(6) Upon receipt of such application and any amendments properly made thereto, the division shall further investigate the matters contained in the application and if any applicant shall duly fulfill and meet all requirements, conditions and qualifications set forth in this chapter and the rules and regulations of the division hereunder, then the division shall grant the permit to such qualified applicant as hereinabove provided.

(7) In the event the division shall refuse to grant the permit, then the money deposited with the county commissioners for the holding of such election shall be refunded to the applicant. In the event the division shall grant the permit applied for, the board of county commissioners shall order an election in said county to decide whether such permit shall be approved and the license issued and race meetings permitted in
such county, as hereinafter provided for in §550.07.

(8) Each licensed thoroughbred running track in the state shall be required to run an average of one race per racing day in which horses bred in Florida and duly registered with the Florida thoroughbred breeders' association shall have preference as entries over non-Florida-breds, and to require all licensed thoroughbred race tracks to write the conditions for such races in which Florida-breds are preferred so as to assure that all Florida-bred horses available for racing at such tracks be given full opportunity to run in the class races for which they are qualified, said opportunity of running to be afforded to each class of horses in proportion that the number of horses in this class bears to the total number of Florida-breds available; and provided that no track shall be required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be run at such track during its meeting.

History.—§2, ch. 14852, 1931; §2, ch. 17276, 1935; CGL 1936 Supp. 4515; §1, ch. 22072, 1943; §1, ch. 23448, 1947; §1, ch. 26846, 1951; §1, ch. 27109; §1, ch. 59-456; §1, ch. 61-178; §2, ch. 71-98; §138, ch. 75-333.

§550.021 Records of division, open for inspection; penalty.—All books, records, maps, documents, and papers of the Division of Parimutuel Wagering, including those filed with said division as well as those prepared by or for it, shall at all times be open for the personal inspection of any officer of the state or any county of Florida or of any official investigative body or committee, and no person having charge or custody thereof shall refuse this privilege to any such officer, investigative body, or committee. Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083.

History.—§1, ch. 2, ch. 26850, 1951; §2, ch. 71-98; §539, ch. 71-136; §139, ch. 73-333.

§550.03 Charity racing days.—(1) The board of business regulation may extend said limitations of time for horse or dog racing or jai alai operation not to exceed two days at any race track beyond the period otherwise provided by law so that any such track or fronton may conduct a day of racing for any one or more recognized and established charitable institutions located within one hundred miles road travel of the race track or fronton holding such charity day of racing. For the purposes of this section the University of Miami, Jacksonville University, Nova University of Advanced Technology and other institutions of higher learning, including community colleges, not already participating in charity or scholarship racing days shall be deemed to be charitable institutions. A portion of the proceeds available for the charitable purposes in an amount not less than twenty-five percent may be paid over to and for the benefit of said charitable institutions of higher learning in said areas. If said second additional day as authorized herein for charitable purposes is conducted by a track located in Duval County or Clay County, the proceeds for charity purposes shall be allocated by payment of fifty per cent thereof to institutions of higher learning or community colleges in Duval County, 25 percent to the St. John's River Community College in Putnam County and 25 percent to the Lake City Community College in Columbia County. The board of business regulation may extend said limitations of time for horse or dog racing or jai alai operation, in addition to the two days heretofore provided, to an additional third day at each race track or fronton in Dade County. If said third additional day is authorized herein for charitable purposes is conducted by a track or fronton in Dade County, the proceeds for charity purposes shall be allocated by payment of fifty percent thereof to the University of Miami and fifty percent to the degree-granting state college authorized under §239.012, to be established in Dade County. The board of business regulation may extend said limitation of time for horse or dog racing or jai alai operation in Sarasota, Manatee, Palm Beach, Escambia or Washington Counties to provide for a total of three charity days. If said third additional day as authorized herein is conducted by a track or fronton located in Sarasota or Manatee Counties, the proceeds for charity purposes shall be allocated by payment of fifty percent thereof to the Manatee Community College. If a third additional charity day is conducted at any track or fronton in Palm Beach County, forty percent of the proceeds for charitable purposes from such day shall be paid to Palm Beach Community College, forty percent of the proceeds for charitable purposes from such day shall be paid to Florida Atlantic University, and the remaining twenty percent of the proceeds for charitable purposes from such day shall be paid to Marymount College. If a third additional charity day is conducted at any track or fronton in Escambia County, fifty percent of the proceeds for charitable purposes from such day shall be paid to the University of West Florida and the remaining fifty percent of the proceeds for charitable purposes from such day shall be paid to Pensacola Community College. If a third additional charity day is conducted at any track or fronton in Washington County, fifty percent of the proceeds for charitable purposes from such day shall be paid to Gulf Coast Community College and the remaining 50 percent of the proceeds for charitable purposes from such day shall be paid to Okaloosa-Walton Community College. The total of all profits derived from the operation of such charity day, including all moneys which would otherwise be received by the division, shall be paid by the said board as taxes for such day's operation, shall be and become a part of the charity trust fund for which such racing on such days is conducted.
(2) In determining profits derived from such racing on such charity day, which profits shall include all taxes payable to the state or any agency thereof for such day's operations without the initial expense of operational allowance provided by law for dog tracks, said tracks and frontons shall only be entitled to deduct from the profits accruing from all receipts on such charity day of racing their actual operating costs, which costs shall be those expenses incurred by the race track or fronton solely by reason of holding such charity day of racing and shall not be deemed to include such expenses constant from day to day and which would have been incurred had the race on that day not been held, including, but not limited to, such items as capital expenditures, interest on debts, real estate taxes and annual license fees, donations, bad debts, and such other items of daily or pro rated expense as the division may by rule prescribe.

History.—§3, ch. 14832, 1931; §3, ch. 69-249.

550.031 Limitation on number of charity days.—No horse or dog racing or jai alai operations may conduct more charity days than authorized by law for the preceding meeting of that particular operation. This section shall supersede all general acts and special acts in conflict.

History.—§1, ch. 57-180; §9, ch. 59-406.

550.035 Additional performance authorized; bicentennial commission.—

(1) The board of business regulation may extend the limitations upon the number of horse or dog racing or jai alai performances which may be held yearly at each track or fronton, so that each licensee may conduct an additional performance for the benefit of the Florida bicentennial commission as provided in this section.

(2) Each licensee choosing to conduct such a performance shall pay all of the profits, without deduction of taxes payable to the state or any agency thereof, after deduction of actual operating expenses for the performance but not the daily operational allowance for dog tracks, as such profits are described in §550.03(4), and all such profits so collected shall be deposited in the state treasury to the credit of the "Bicentennial Commemoration Trust Fund," which is hereby created. Such amounts shall be used by the bicentennial commission, established under §13.9971, and are appropriated to aid in the planning and developing of Florida's participation in the commemoration of the American Revolution as provided in that section.

(3) If any licensee chooses not to conduct a performance under this section, the board may authorize any other licensee in the state to conduct a second additional performance for the purposes of this section.

(4) This section shall be effective to authorize the conduct of such additional racing and jai alai performances after June 22, 1971 and no later than December 31, 1976.

History.—§1, ch. 71-267; §1, ch. 71-48; §1, ch. 72-91.

550.04 Racing meetings authorized; restrictions.—Any person desiring to operate a race track in this state may, subject to the provisions of this chapter, hold and conduct one or more racing meetings at such track each year. Horse race track meetings shall be held only from and including the 1st day of December of each year to and including the 20th day of April of the year following, which period shall be known as the horse racing season, and the dog race track meetings shall be held only during the period extending from and including the 1st day of November of each year to and including the 31st day of May of the year following, which period shall be known as winter dog racing season; provided, however, that summer dog track meetings shall be held only during the period beginning with and including June 1st and up to and including the 30th day of September, in counties lying wholly east of the St. Johns river, south of an east-west line from the Matanzas inlet to said river, and north of latitude 28 degrees 35 minutes; and provided further that both horse race meetings and dog race meetings shall be limited to the aggregate number of racing days as provided in §550.08. No racing shall be permitted on Sunday, and no minors except jockey apprentices, exercise boys and grooms shall be permitted to attend said races or to be employed in any manner by the track provided, however, nothing in this chapter shall be construed to prohibit the use of any dog racing plant or facility, for the conducting of "hound dog derbies" or "mutt derbies," from being used on any Sunday during each racing season by any charitable, civic or nonprofit organization for the purpose of conducting "hound dog derbies" or "mutt derbies" where only dogs other than those usually used in dog racing (greyhounds) are permitted to race and where adults and minors may participate as dog owners or spectators, and provided further that during such racing events betting and gambling and the sale or use of alcoholic beverages shall be strictly and absolutely prohibited.

History.—§1, ch. 14832, 1931; §4, ch. 17276, 1938; CGL 1936 Supp. 4151(52); am. §1, ch. 21668, 1943; am. §1, ch. 57-180; §53, ch. 67-540; cf.—§3, ch. 72-91.

550.05 Application for permit to conduct race meetings.—

(1) Between June 1 and July 1 of each
year, but at no other time, any person possessing the qualifications prescribed in this chapter shall apply to the division of pari-mutuel wagering for a permit to conduct race meetings and racing under this chapter. No application thus received by the division shall be amended after August 1 of the current year. No permit shall be granted before August 15, but not thereafter, of each year, after receipt of any application, the division shall convene to consider and act upon permits applied for, and all applications not definitely acted upon by the division on or prior to August 15 of each year shall be void.

(2) Upon all applications filed and approved a permit shall be issued to the applicant setting forth the name, the location of the race track, the kind of racing desired to be conducted and a statement showing qualifications of the applicant to conduct racing at said track under this chapter; provided, however, no permit shall be effectual to authorize any race until ratified by a majority of the electors participating in said election, and in the county in which applicant proposes to conduct racing; and provided further that no application shall be considered and no permit shall be issued by the division nor voted upon in any county to conduct running horse races, harness horse races or dog races at a location within one hundred miles of another location for which a permit has been issued and a racing plant located, said distance to be measured on a straight line from the nearest property line of one racing plant to the nearest property line of the other, except that permits heretofore issued and ratified by a majority of the electors of any county shall not be affected by this provision.

History.--45, ch. 14832, 1931; §5, ch. 17278, 1935; CGL 1936 Supp. 415; 550.06 Elections for ratification of permits.

The holder of any permit may have submitted to the electors of the county designated therein the question whether or not said permit shall be ratified or rejected. Such questions shall be submitted to the electors for approval or rejection at a special election to be held within twelve months of the date of the permit; and shall contain the full text of the permit and the registration book for said track. Such vote on the question of ratification of any permit shall not be void if a majority of the electors voting at such election shall have voted for such ratification, and the division shall ratify or reject such permit as authorized by such vote in a general election held for such purpose. The county commissioners shall canvass the returns, declare the results, and cause the same to be recorded as provided in the general law concerning elections so far as applicable.

(3) Provided, that where a permit has been granted by the division and no application to the board of county commissioners has been made by the permittee within six months after the granting of the permit, the same shall be void, and the division shall cancel such permit without notice to the holder thereof, and the board of county commissioners holding the deposit for the election shall refund to the holder of the permit said deposit upon being notified by the division that the permit has become void and canceled; provided further, that where, upon a permit issued, an election has been held and such permit ratified, as herein provided, and the holder of the ratified permit has failed to construct a race track within twelve months after the ratification of said permit, then the permit shall be void and the division shall cancel such permit without notice to the holder thereof.

(4) For such election all electors duly registered and qualified to vote at the last preceding general election held in such county shall be qualified electors for such election, and in addition thereto the registration books for such county shall be opened on the tenth day (if the tenth day be Sunday or a holiday, then on the next day not a Sunday or a holiday) after said election is ordered and called, and shall remain open for a period of ten days for additional registrations of persons qualified for registration but not already registered, and electors for such special election shall have the same qualifications for and prerequisites to voting in elections as under the general election laws.

(5) If at any such special election the majority of the electors voting on the question of ratification or rejection of any permit shall vote against such ratification, then such permit shall be void. If a majority of the electors voting on the question of ratification or rejection of any permit shall vote for such ratification, then such permit shall become effective and the holder thereof may conduct racing upon complying with the other provisions of this chapter. The county commissioners shall imme-
550.061 Cancellation of permit to conduct race meeting.—Where the holder of a ratified permit issued pursuant to law, for the conduct of horse, in harness using a sulky, race meetings has failed to construct a track suitable to conduct such race meetings by July 1, 1948, or within one year from the date on which such permit was issued, whichever period of time be the longest, then such permit shall be void and the division of pari-mutuel wagering may cancel such permit without notice to the holder thereof.

History.—§1, ch. 24359, 1947; §2, ch. 71-98.

550.062 Cancellation of certain permits.—(1) Every permit issued prior to January 1, 1943, under the statutes for the conduct of race meetings and racing where the holder of such permit has failed to conduct a racing meet under said permit within a period of five years next preceding June 7, 1949, is hereby cancelled and annulled.

(2) This section shall apply to and shall be deemed to cancel and annul all such permits, notwithstanding the permittee be a corporation which has been dissolved or a person, corporation or association in bankruptcy or whose assets or affairs are in the hands of a trustee in bankruptcy or of a receiver appointed by any court.

History.—§1, ch. 24359, 1947; §2, ch. 71-98.

550.063 Dog racing; ratified permit; extension of time in certain areas.—The time within which the holder of a ratified permit for dog racing shall construct a racetrack is hereby extended for the period of thirty months from the date of the ratification of such permit by the electorate, where such permit was issued and ratified subsequent to January 1st, 1945, and where the location of such racetrack is west of the Apalachicola river, anything to the contrary in any statute notwithstanding.

History.—§1, ch. 24359, 1947; §2, ch. 71-98.

550.064 Horse racing; ratified permit; extension of time in certain areas.—The time within which the holders of a ratified permit for horse racing shall construct a race track is hereby extended for the period to May 1, 1953, where such permit was issued and ratified subsequent to December 1, 1949, and where the location of such race track is east of the Apalachicola river, anything to the contrary in any statute of the state notwithstanding.

History.—§1, ch. 24359, 1947; §2, ch. 71-98.

550.065 Harness racing; certain permits validated; license.—(1) Any permit issued by the division of pari-mutuel wagering, subsequent to June 1, 1946, to conduct horse racing, in harness, which permit, having been ratified in the manner prescribed by law, in any county of the state where no running horse tracks or dog tracks are located and established, is hereby validated and restored by the permittee or permittees, or his or their lawful assignees, and the time within which the holder of any such ratified permit shall construct a race track is hereby extended for a period of twelve months from such time as restrictions and limitations against such construction now imposed by federal regulations, are removed.

(2) Any horse racing track, in harness with sulky, which may be established and shall operate by virtue of the provision of subsection (1) of this section, shall be entitled to a license from the division for a meet or meetings for a period of not exceeding ninety days of racing during the established racing season, fixed by law, for horse racing, and during such meet or meeting racing may be conducted by a valid permittee at such track either in the day time or night time, at the option of the permit holder, or at the election of the permit holder, the racing season may be divided so that part of the racing during any one season may be conducted at nights and part in the day time; provided, however, there shall be no racing on Sunday, and when racing is being conducted at nights, there shall be no racing in the day time of the same day.

(3) The commission of a licensee on a pari-mutuel pool on horse races, where such license is issued to conduct horse racing in harness, and in the counties affected by the provisions of this section, shall be the same as allowed and received by a licensee on a pari-mutuel pool on dog races as now fixed and established by law.

(4) In all respects the provisions of this chapter shall be applicable to the subject matter of this section, except those provisions thereof which are inconsistent herewith.

History.—§1-4, ch. 24359, 1947; §2, ch. 71-98.

550.066 Harness racing; conduct of races, approval of division.—Upon approval by the division of pari-mutuel wagering any holder of a ratified permit to conduct horse racing in harness, which permit was validated and restored by §§550.065(1), is hereby authorized to conduct not more than three quarter horse races per day upon the race track of the ratified permit holder, said three quarter horse races to be instead and in lieu of three horse races in harness with sulky during the regular race meeting of the permit holder; provided, however, that the quarter horses participating in such races shall be duly registered by the American quarter racing association and certified to the permit holder by a bona fide cooperative association organized under the laws of Florida, which has been in existence for two years or more and which has for its purpose the cooperative agricultural activity of breeding and training quar-
ter running horses. All of the provisions of this chapter, and rules and regulations of the division relating to harness horse racing with sulky shall apply to any quarter horse race allowed by this section.

History.—§1, ch. 57-307; §2, ch. 71-98.

550.067 Dog racing; validation of certain permits; exemptions.—

(1) All permits for dog racing or to hold and conduct dog race track meetings granted by the division of pari-mutuel wagering on or subsequent to June 7, 1949, and submitted to and ratified by a majority of the electors of the county designated in such permits voting on the question of ratification or rejection of such permits are hereby declared valid and lawful for the purpose for which issued and to permit the operation of a dog race track and to conduct dog race track meetings on the premises described in such permits.

(2) The provisions of this section shall not apply to permits which have been suspended, canceled or revoked either by the division or in a recall election pursuant to the provisions of §550.18, nor shall the same affect or apply to permits canceled and annulled pursuant to the provisions of §550.062.

(3) This section shall not prevent the cancellation or revocation of any permit by any future recall election or the suspension, cancellation or revocation of any permit by the division in the manner and for such causes as other permits may be suspended, canceled or revoked by the division.

History.—§81-3, ch. 57-237; §2, ch. 71-98.

550.068 Harness racing; certain permits validated.—

(1) Any permit to conduct horse racing in harness or to hold harness horse race meetings granted and issued by the division of pari-mutuel wagering subsequent to July 1, 1956, and prior to the effective date of this act and submitted to and ratified by a majority of the electors of the county designated in such permit and on the basis of which ratified permit the holder thereof was issued license to conduct harness horse racing and in reliance thereon the holder of such permit and license construct ed racing plant or track, and which permit and license was thereafter held and declared to be invalid as violative of the provisions of this chapter, and particularly the one hundred mile distance requirements of §550.05, is hereby declared to be valid and the same is hereby restored, ratified and confirmed the same as if never held or declared to be invalid, notwithstanding the distance provisions of this chapter and §550.05 is hereby repealed and declared to be ineffective and inoperative as to any such permit and license issued and ratified as aforesaid.

(2) It is hereby declared to be the legislative purpose and intent to ratify and confirm all actions of the Division of Pari-mutuel Wagering in the issuance of any permit described in subsection (1), and to ratify, confirm and validate all proceedings in relation to the issuance and ratification of any such permit and to repeal and declare any law or laws in conflict herewith to be inoperative, ineffective and inapplicable to any such permit.

History.—§1, ch. 63-201; §2, ch. 71-98.

550.069 Harness racing; daily license fee.—

(1) Any duly licensed harness horse race track having an average daily pari-mutuel pool of less than one hundred thousand dollars per day shall, in lieu of the payment of the taxes imposed upon such tracks as now provided by law, be permitted to operate the sale of pari-mutuel pools on the basis of a fixed daily license fee, which fee shall be determined from the following schedule:

- Up to $50,000.00 per day: $1,000.00 per day.
- Over $50,000.00 per day but not exceeding $75,000.00 per day: $3,000.00 per day.
- Over $75,000.00 per day but not exceeding $100,000.00 per day: $5,000.00 per day.
- Over $100,000.00 per day: three-fourths of which daily license fee shall be distributed equally to the sixty-seven counties of the state and the remaining one-fourth to the state's general revenue fund.

(2) Whenever any harness horse track exceeds the sum of one hundred thousand dollars per day in its pari-mutuel pool totals this section shall not apply, and such harness horse track shall be taxed as provided by other general laws.

(3) It is hereby declared to be the legislative purpose and intent to ratify, confirm and validate actions of the division of pari-mutuel wagering in the issuance of any permit described in §550.068 (1), and the placing in operation the fixed daily license fee provided for herein.

History.—§81-3, ch. 63-201; §2, ch. 71-98.

550.07 Issue of license by division; revocation of license; penalty in lieu thereof.—

After a permit has been granted by the division of pari-mutuel wagering, and after the same has been ratified and approved by the majority of the electors participating in such election of the county designated therein, the division shall grant to the lawful holder of such permit, subject to the conditions hereof, a license to conduct racing under this chapter, and fix annually the time, place and number of days during which racing may be conducted by such permit holder at the location fixed in said permit and ratified in said election. After the first license has been issued to the holder of a ratified permit for racing in any county, all subsequent annual applications for a license by said ratified permit holder shall be accompanied by proof in such form as the division may require, that the ratified permit holder still possesses all the qualifications prescribed by this chapter, and that the permit has not been recalled at a later election held in such county as provided for in §550.18. The division

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