

CHAPTER 506

STAMPED OR MARKED CONTAINERS AND BASKETS

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- 506.01 Devices to be filed in offices.**—Any person engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, small beer, lager beer, weiss beer, white beer or other beverages or medicine, medical preparations, perfumery, oils, compounds or mixtures, in bottles, siphons, fountains, tins or kegs, with his name or other marks or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles, siphons, fountains, tins or kegs, or the boxes used by him may file in the office of the clerk of the county in which his principal place of business is situated, or if such person shall manufacture or bottle out of this state, then in any county in this state, and also with the Department of State, a description of the name, marks or devices so used by him and cause such description to be printed once each week, for three weeks successively, in a newspaper published in the county in which said notice may have been filed.
- History.**—s. 1, ch. 4584, 1897; GS 3165; RGS 4991; OGL 7080; ss. 10, 35, ch. 69-106.
- 506.02 Presumptive evidence of unlawful use.**—The use by any person other than the person whose device, name or mark shall be or shall have been upon the same, without written consent or purchase, of any marked or distinguished bottle, box, siphon, fountain, tin

or keg, a description of which shall have been filed and published, as provided in s. 506.01, for the sale therein of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, beer, small beer, lager beer, weiss beer, white beer, or other beverages, or any article of merchandise, medicines, medical preparations, perfumery, oils, compounds, mixtures or preparations, or for the furnishing of such or similar beverages to customers; or the buying, selling, using, disposing of or trafficking in any such bottles, boxes, siphons, fountains, tins or kegs by any person other than said persons having a name, mark or device thereon of such owner without written consent, or the possession by any junk dealer or dealers in secondhand articles of any such bottles, boxes, siphons, fountains, tins or kegs, a description of which shall have been so filed and published as aforesaid, without such written consent, is presumptive evidence of the unlawful use, purchase and traffic in of such bottles, boxes, siphons, fountains, tins or kegs.

History.—s. 3, ch. 4584, 1897; GS 3166, 3346; RGS 4992, 5189; CGL 7081, 7292.

506.03 Search warrant.—When any person or his agent shall make oath before any judge having jurisdiction in the district where the offense is committed that he has reason to believe and does believe that any of his bottles, boxes, siphons, fountains, tins, or kegs, a description of which has been filed and published as aforesaid, are being unlawfully used or filled or had by any person manufacturing or selling soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, weiss beer, white beer, or other beverages or medicine, medical preparations, perfumery, oils, compounds, or mixtures, or that any junk dealer or dealers in secondhand articles, vendor of bottles, or other person, has any such bottles, boxes, siphons, fountains, tins, or kegs in his possession or secreted in any place, the said judge shall thereupon issue a search warrant signed by him with his name of office, to any sheriff and his deputies or any police officer or other person authorized by law to execute process, commanding the officer or person forthwith to search the property described in the warrant or the person named, for the property specified, and to bring the same before the court having jurisdiction of the offense.

History.—s. 4, ch. 4584, 1897; GS 3167; RGS 4993; CGL 7082; s. 26, ch. 73-334.

506.04 Deposit on bottles or other specified containers not a sale of property.—The requiring, taking, or accepting of any deposit, for any purpose, upon any bottle, box, siphon, fountain, tin, or keg is not a sale of such property, either optional or otherwise, in any proceedings under ss. 506.01-506.09.

History.—s. 5, ch. 4584, 1897; GS 3168; RGS 4994; CGL 7083.

506.05 Unlawful use of bottles or other specified containers when label is registered; penalty.—No person shall fill with soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, beer, small beer, lager beer, weiss beer, white beer or other beverages, or with medicine, medical preparations, perfumery, oils, compounds or mixtures, any bottle, box, siphon, fountain, tin or keg, which has been marked or distinguished under the provisions of s. 506.01, or deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark

or device thereon, or sell, buy, give, take, or otherwise dispose of, or wantonly destroy, or traffic in the same without the written consent of, or unless the same shall have been purchased from the person whose mark or device shall be or shall have been in or upon the bottle, box, siphon, fountain, tin or keg so filled, trafficked in, used or handled as aforesaid. Any person violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and for each subsequent offense shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 4584, 1897; GS 3345; RGS 5188; CGL 7291; s. 7, ch. 22858, 1945; s. 462, ch. 71-136.

506.06 Unlawful to counterfeit trademark.—When any person or any association or union of working men adopts or uses and files as provided in s. 506.07 any label, trademark, term, wording, design, device, color or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other products of labor as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of working men, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trademark, term, wording, design, device, color or form of advertisement, or knowingly to use, sell, offer for sale, or in any other way utter or circulate any counterfeit or imitation of any such label, trademark, term, wording, design, device, color or form of advertisement.

History.—s. 1, ch. 4974, 1901; GS 3169; RGS 4995; CGL 7084.

506.07 Filing of trademark or other form of advertisement for record with Department of State.—Every person, association or union that adopts or uses a label, trademark, term, wording, design, device, color or form of advertisement as provided in s. 506.06, may file the same for record with the Department of State, by leaving two copies, counterparts or facsimiles thereof, with said department, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trademark, term, wording, design, device, color or form of advertisement shall be filed, the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing or on whose behalf such label, trademark, term, wording, design, device, color or form of advertisement shall be filed, has the right to the use of the same; that no other person, association or union has the right to use either in the identical form or in any such near resemblance thereto as may be calculated to deceive and that the facsimiles or counterparts filed therewith are true and correct.

History.—s. 3, ch. 4974, 1901; GS 3170; RGS 4996; CGL 7085; ss. 10, 35, ch. 66-106.

506.08 Fee for filing.—There shall be paid for such filing and recording a fee of \$26.25. The Department of State shall deliver to such person, association or union so filing or causing to be filed any label, trademark, term, wording, design, device, color or form of advertisement so many duly attested certificates of the recording of the

same as such person, association or union may apply for, for each of which the department shall receive a fee of \$26.25. Any certificate of record shall, in all suits and prosecutions hereunder, be sufficient proof of the adoption of such label, trademark, term, wording, design, device, color or form of advertisement. The Department of State shall not record for any person, union or association any label, trademark, term, wording, design, device, color or form of advertisement that would probably be mistaken for any label, trademark, term, wording, design, device, color or form of advertisement theretofore filed by or on behalf of any other person, union or association.

History.—s. 3, ch. 4974, 1901; GS 3171; RGS 4997; CGL 7086; ss. 10, 35, ch. 69-106; s. 8, ch. 71-114; s. 61, ch. 90-132.

506.09 Civil remedies.—

(1) A person, association, or union that adopts or uses, and files as provided in s. 506.07, a label, trademark, term, wording, design, device, color, or form of advertisement may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeits thereof. Any court of competent jurisdiction may grant an injunction to restrain such manufacture, use, display, or sale as may be deemed just and reasonable and shall require the defendant to pay to the owner up to 3 times its profits from, and up to 3 times all damages suffered by reason of, the wrongful manufacture, use, display, or sale. The court may order the destruction of all such counterfeits, all means of making the counterfeits, and all goods, articles, or other matter bearing the counterfeits, which are in the possession or control of the court or any party to the action; or, after obliteration of the counterfeits, the court may dispose of those materials by ordering their transfer to the state, a civil claimant, an eleemosynary institution, or any appropriate private person other than the person from whom the materials were obtained.

(2) The court, upon motion or ex parte application by a plaintiff in a suit to enjoin the manufacture, use, display, or sale of counterfeits, may order seizure of the counterfeit goods from persons manufacturing, displaying for sale, or selling the goods, upon a showing that the counterfeit goods are likely to be destroyed, sold, or removed from the jurisdiction of the court and that there is a probability of success on the merits and upon the posting of an undertaking pursuant to subsection (5). If it appears from the ex parte application that there is good reason for proceeding without notification to the defendant, the court may, for good cause shown, waive the requirement of notice for the ex parte proceeding. The order of seizure shall specifically set forth:

- (a) The date or dates on which the seizure is ordered to take place;
- (b) A description of the counterfeit goods to be seized;
- (c) The identity of the persons or class of persons to effect the seizure;
- (d) A description of the location or locations at which the seizure is to occur; and
- (e) A date, not more than 10 court days after the last date on which seizure is ordered, for a hearing at which any person from whom goods were seized may appear and seek release of the seized goods.

Any person from whom a seizure is to be effected shall be served with the order at the time of the seizure.

(3) Any person who causes the seizure of goods which are not counterfeit is liable in an amount equal to the following:

- (a) Any damages proximately caused by the seizure of goods which are not counterfeit to any person having a financial interest in the seized goods.
- (b) Costs incurred in defending against seizure of such goods.
- (c) Upon a showing that the person who caused the seizure to occur acted in bad faith, expenses, including reasonable attorney's fees, in defending against the seizure of such goods.
- (d) Punitive damages, if warranted.

(4) A person entitled to recover may seek a recovery pursuant to subsection (3) by cross-claim or motion made in the trial court. A person seeking a recovery pursuant to this section may join any surety on an undertaking posted pursuant to subsection (2), and any judgment of liability will bind the person liable pursuant to subsection (3) and the surety jointly and severally, but the liability of the surety is limited to the amount of the undertaking.

(5) The court shall set the amount of the undertaking required by subsection (2) in accordance with the probable recovery of damages, costs, and expenses under subsection (3) if it is ultimately determined that the goods seized are not counterfeit.

(6) Any person entitled to recover under subsection (3) may, within 30 days after the date of seizure, object to the undertaking on the ground that the surety or the amount of undertaking is insufficient.

(7) The motion or application filed pursuant to subsection (2) shall include a statement advising the person from whom the goods are seized that the undertaking has been filed, informing him of his right to object to the undertaking on the ground that the surety or the amount of the undertaking is insufficient, and advising him that such objection to the undertaking must be made within 30 days after the date of seizure.

History.—s. 5, ch. 4974, 1901; GS 3172; RGS 4998; CGL 7087; s. 1, ch. 84-132.

506.11 Unlawful use of trademark; penalty.—Every person who shall use or display the genuine label, trademark, term, wording, design, device, color or form of advertisement of any person, association or union, when legally filed for record, in any manner, not being authorized so to do by such person, union or association, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 6, ch. 4974, 1901; GS 3348; RGS 5191; CGL 7294; s. 464, ch. 71-136.

506.12 Procuring the filing of trademark or other form of advertisement by fraudulent representations; penalty.—Any person who shall, for himself or on behalf of any other person, association or union, procure the filing of any label, trademark, term, wording, design, device, color or form of advertisement with the Department of State, by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damage sustained in consequence of such filing, to be recovered by

or on behalf of the party injured thereby in any court having jurisdiction, and shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 4, ch. 4974, 1901; GS 3349; RGS 5192; CGL 7295; ss. 10, 35, ch. 69-106; s. 465, ch. 71-136.

506.13 Using the name or seal of another; penalty.

Any person who shall, in any way, use the name or seal of any person, association or union or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 7, ch. 4974, 1901; GS 3350; RGS 5193; CGL 7296; s. 466, ch. 71-136.

506.14 Sale or distribution of milk in marked bottles by person other than owner.—No person, without the written consent of the owner, shall sell or offer for sale or distribute milk, cream, or other milk products, in bottles, cans or crates of another person, whose name, label or mark is permanently fixed thereon; mar, or cover up such label, name or mark; sell, dispose of or traffic in such receptacle, or refuse upon demand to return the same to the owner, except milk or cream bottles permanently marked by the manufacturer "5¢ Store Bottle," and on which a 5-cent charge is made whenever the bottle changes hands.

History.—ss. 1, 2, ch. 17104, 1935; CGL 1936 Supp. 3219(60).

506.15 Possession of marked milk bottles may be presumptive evidence of unlawful use.—The use for the sale and distribution of milk, cream or milk products by any other than the person whose label, name or mark shall be or shall have been upon the same, or the possession by any dealer in secondhand articles, of any such receptacle without the written consent of the owner is presumptive evidence of the unlawful use or traffic in such article.

History.—s. 3, ch. 17104, 1935; CGL 1936 Supp. 7677(6).

506.16 Proceedings by owner to recover possession of milk bottles and to protect rights.—The owner of such receptacle as is described in ss. 506.14 and 506.15 shall have the right to take and recover the same from any person unlawfully possessing the same, and may maintain actions of replevin, or other appropriate actions, to preserve his rights therein. The court also may grant an injunction restraining any person from doing any of the acts and things herein declared to be unlawful. In any action taken by the owner, and prosecuted to a successful conclusion, for the recovery of such property or to protect his rights therein, he shall be allowed all costs of such proceeding, including a reasonable attorney's fee.

History.—s. 4, ch. 17104, 1935; CGL 1936 Supp. 3219(61).

506.17 Certain acts not to constitute sale of milk container.—The sale or delivery of milk, cream, or milk products, contained in such bottle, can or crate, or the taking or accepting of any deposit upon delivery of such container does not constitute a sale of such container.

History.—s. 5, ch. 17104, 1935; CGL 1936 Supp. 3219(62).

506.18 Penalty for violations.—Any person violating the provisions of ss. 506.14-506.17 shall be guilty of

a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 17104, 1935; CGL 1936 Supp. 7677(6); s. 467, ch. 71-136.

506.19 Protection of owners of marked or branded field boxes or other specified containers; recordation.

Any person being the owner of field boxes, pallets, crates, containers, or receptacles used in the general production, harvesting, packing, transportation, or marketing of fruits or vegetables or their byproducts in the state may adopt for his exclusive use and ownership a particular mark or brand to designate and distinguish his ownership thereof and may identify his field boxes, pallets, crates, containers, or receptacles so used with such mark or brand in the form of such combinations, initials, symbols, designs, or names as he may desire, by plainly and distinctly stamping, stenciling, painting, cutting, etching, or burning the same into or upon both ends or sides of such field boxes, pallets, crates, receptacles, or containers, and the presence of such identifying mark or brand on any field box, pallet, crate, container, or receptacle whenever a copy or description thereof shall have been filed and recorded in the office of the Department of Agriculture and Consumer Services as herein provided for, shall, in any court and in any proceedings in this state, be prima facie evidence of the ownership of such boxes, pallets, crates, containers, or receptacles by the person in whose name such mark or brand may have been recorded, provided such mark or brand shall have been recorded with the Department of Agriculture and Consumer Services as herein provided and shall bear the registered number herein provided for.

History.—s. 1, ch. 16018, 1933; s. 1, ch. 16859, 1935; CGL 1936 Supp. 7087(1), (13); s. 1, ch. 67-18; ss. 14, 35, ch. 69-106; s. 1, ch. 72-47.

506.20 Filing and recording of marks and brands on field boxes.—Any person desiring to avail himself of the benefits of ss. 506.19-506.28, may make application to the Department of Agriculture and Consumer Services and shall file with such department a true copy and description of such identifying mark or brand,

which, if entitled thereto under the provisions of ss. 506.19-506.28, shall be filed and recorded by such department in a book to be provided and kept by it for that purpose, and the name of the owner of such brand or mark shall be likewise entered into such record, and such department shall then assign or designate a permanent registered number to the owner of such brand or mark, said number to be assigned progressively as marks and brands are received and recorded, and the registered number so assigned shall then become a part of the registered brand or mark and shall plainly and distinctly be made to appear on such field boxes, pallets, crates, receptacles and containers, together with the identifying mark or brand referred to in s. 506.19 hereof. The department shall determine if such brand or mark so applied for is not a duplication of any brand or mark previously recorded by or with it, or does not so closely resemble the same as to be misleading or deceiving. If the brand or mark applied for does so resemble or is such a duplication of previously recorded brands or marks as to be misleading or deceiving, the application shall be denied and the applicant may file some other

brand or mark in the manner described above. The books and records previously kept by the Secretary of State shall be transferred to the Commissioner of Agriculture upon the effective date of this act.

History.—s. 2, ch. 16018, 1933; s. 2, ch. 16859, 1935; CGL 1936 Supp. 7087(2), (14); s. 1, ch. 67-18; ss. 14, 35, ch. 69-106; s. 1, ch. 72-47.

506.21 Filing fee; issuance of certificate of recordation.—The application for filing and recording shall be accompanied by a fee of \$2 and thereupon, if consistent with the provisions of s. 506.20 the Department of Agriculture and Consumer Services shall issue to the person applying for registration and recordation of such mark or brand a certificate of such recordation and of the register number assigned thereto and thereafter it shall issue such certificates, in any number, to any person applying therefor, upon the payment of a fee of \$1 for each certificate so issued, and such certificate shall, in all proceedings in all of the courts of this state be taken as proof of the adoption and recordation of such identifying mark or brand.

History.—s. 3, ch. 16018, 1933; s. 3, ch. 16859, 1935; CGL 1936 Supp. 7087(3), (15); s. 1, ch. 67-18; ss. 14, 35, ch. 69-106.

506.22 Transfer, release, or sale of registered mark or brand.—The owner of any such registered mark or brand may transfer, release, or sell the same by an instrument in writing evidencing such transfer, release, or sale, and upon application to the Department of Agriculture and Consumer Services where such mark or brand is registered for the recordation of such instrument in writing, and upon the filing of the same with such department and the payment of a fee of \$2 the department shall cause such instrument or transfer, release, or sale to be placed on record in a book provided and kept by it for that purpose, and certificates of such transfer, upon application therefor, shall be issued by it in like manner, upon the payment of like fees, as provided for the issuance of certificates under the provisions of s. 506.21.

History.—s. 4, ch. 16018, 1933; s. 4, ch. 16859, 1935; CGL 1936 Supp. 7087(4), (16); s. 1, ch. 67-18; ss. 14, 35, ch. 69-106.

506.23 Application of law.—The provisions of ss. 506.19-506.28 shall not be construed to apply when fruits, vegetables, or their byproducts, are wrapped or packed in such accepted or prescribed standard containers as are prescribed and designated by the National Institute of Standards and Technology and are used only as receptacles or containers for fruits, vegetables, or their byproducts when offered for transportation or sale only.

History.—s. 10, ch. 16018, 1933; s. 10, ch. 16859, 1935; CGL 1936 Supp. 7087(5), (17); s. 5, ch. 90-320.

506.24 Unauthorized possession of field boxes or other specified containers; penalty.—

(1) Any person who shall have in his unauthorized possession any field box, pallet, crate, receptacle, or container marked or branded with any mark or brand registered under the provisions of ss. 506.19-506.28, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The possession by any person of any field box, pallet, crate, container, or receptacle so marked or branded, in the absence of written authority therefor,

shall be prima facie evidence of the violation of the provisions of this section. However, the owner of such recorded or registered mark or brand may, in writing, authorize and designate any person to use or have in his possession any such field boxes, pallets, crates, containers, or receptacles.

History.—s. 5, ch. 16018, 1933; s. 5, ch. 16019, 1933; s. 5, ch. 16859, 1935; CGL 1936 Supp. 7433(3), (8), (16); s. 468, ch. 71-136; s. 1, ch. 72-47.

506.25 Alteration or obliteration of marks or brands on field boxes or other specified containers.—If any person shall alter, change, remove or obliterate the registered mark or brand on any field box, pallet, crate, container, or receptacle other than his own or shall cause or procure the same to be done, with intent to claim the same, or to prevent identification thereof by the true owner, or use or have in his possession, any such field box, pallet, crate, container, or receptacle on which the registered mark or brand has been altered, changed, removed or obliterated, such person shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 6, ch. 16018, 1933; s. 6, ch. 16019, 1933; s. 6, ch. 16859, 1935; CGL 1936 Supp. 7433(4), (9), (17); s. 469, ch. 71-136; s. 1, ch. 72-47.

506.26 Purchase of marked field boxes or other specified containers from one other than owner.—It is unlawful for any person to receive or to purchase any field box, pallet, crate, container, or receptacle marked or branded with registered mark or brand as herein provided, from any person other than the registered owner thereof or his duly authorized agent, and proof of such receipt or purchase shall be prima facie evidence in any court of this state that such receiver or purchaser received or purchased the same with knowledge that it was stolen or embezzled property, and upon conviction thereof, such receiver or purchaser shall be punished as for receiving stolen or embezzled property.

History.—s. 7, ch. 16018, 1933; s. 7, ch. 16019, 1933; s. 7, ch. 16859, 1935; CGL 1936 Supp. 7433(5), (10), (18); s. 1, ch. 72-47.

506.27 Refusal to deliver marked field boxes or other specified containers to owner upon demand.—The refusal of any person in possession thereof to deliver any field box, pallet, crate, container, or receptacle so marked or branded and registered as herein provided, to the registered owner of the same or his duly authorized agent, upon the demand of such registered owner or authorized agent, when said demand is accompanied with a display of the certificate of recordation and number of the same, as furnished to the registered owner by the Department of Agriculture and Consumer Services, shall be prima facie evidence in any court of this state of a fraudulent intent to convert said field box, pallet, crate, container, or receptacle to the use of the person or persons, so in possession of the same, and to deprive the registered owner thereof, and any person convicted of a violation shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 16018, 1933; s. 8, ch. 16019, 1933; s. 8, ch. 16859, 1935; CGL 1936 Supp. 7433(6), (11), (19); s. 1, ch. 67-18; ss. 14, 35, ch. 69-106; s. 470, ch. 71-136; s. 1, ch. 72-47.

506.28 Sending marked field boxes or other specified containers out of state; penalty.—Any person who

shall take or send out of the state, or cause to be taken or sent out of the state, any field box, pallet, crate, container, or receptacle so registered or branded as herein provided without the permission of the owner thereof shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 9, ch. 16018, 1933; s. 9, ch. 16019, 1933; s. 9, ch. 16859, 1935; CGL 1936 Supp. 7433(7), (12), (20); s. 471, ch. 71-136; s. 1, ch. 72-47.

506.29 Short title.—Sections 506.30-506.45 shall be known and designated as the "Florida Milk and Ice-cream Container Law" and may be so cited and referred to in all processes and proceedings taken under it and in all courts and places.

History.—s. 1, ch. 21969, 1943.

506.30 Application of law.—Any person or corporation engaged in manufacturing milk, cream, ice cream, coated ice cream, imitation ice cream, ice-cream mixtures or compounds or any other similar product frozen substantially to the consistency of ice cream; or any person or corporation engaged in bottling or selling milk, cream, ice cream, coated ice cream, imitation ice cream, ice-cream mixtures or compounds or any other similar product frozen substantially to the consistency of ice cream, in ice-cream containers, packages, wrappers, cabinets, refrigerators, bottle, barrel, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacles or containers upon which his or its name, or other marks or devices used by him or it, are branded, stamped, engraved, etched, blown, embossed, impressed or otherwise produced, may register his or its name, mark or device as hereinafter provided, and upon completing the registration and publication of any such name, mark or device, shall thereupon be deemed the proprietor of such name, mark or device and of every bottle, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container upon which such name, mark or device may be branded, stamped, engraved, etched, blown, embossed, impressed or otherwise produced.

History.—s. 2, ch. 21969, 1943.

506.31 Registration of names, marks, and devices.

Any such names, marks or devices may be registered by filing in the office of the clerk of the circuit court of the county in which the principal office of the person or corporation seeking registration is situate and with the Department of State a description of such names, marks or devices; provided, that if any such person or corporation has no principal office in this state, then such person or corporation may register such name, mark or device by filing descriptions thereof in the office of the clerk of the circuit court of any county in which such person or corporation does business and with the Department of State.

History.—s. 3, ch. 21969, 1943; ss. 10, 35, ch. 69-106.

506.32 Notice of intention to register.—Any person or corporation seeking to register such names, marks or devices shall first cause such description to be printed once in each week, for 2 weeks successively, in a newspaper published in the county in which said description may be filed as aforesaid.

History.—s. 4, ch. 21969, 1943.

506.33 Certified copies of registration; use as evidence.—A copy of such description, duly certified by the clerk of the circuit court of the county where such description has been filed, and a copy of such description, duly certified by the Department of State, shall be received as evidence of such filing and also of the matters therein stated in all courts and places.

History.—s. 5, ch. 21969, 1943; ss. 10, 35, ch. 69-106.

506.34 Proof of publication; notice of intention.—The affidavit of the printer or publisher of a newspaper published within this state, or of his foreman or clerk, showing the publication of the description required by s. 506.32, annexed to a printed copy of the notice as published, shall be received as evidence of the publication, and also of the matters therein stated, in all courts and places.

History.—s. 6, ch. 21969, 1943.

506.35 Containers; illegal use.—No person or corporation other than the owner or proprietor of such name, mark or device shall fill or cause to be filled with milk, cream, ice cream, coated ice cream, imitation ice cream, ice-cream mixtures or compounds or any other similar product frozen substantially to the consistency of ice cream, or shall sell, buy, give, take, possess, use, dispose of or traffic in any box, siphon, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container which is so marked or distinguished with or by any name, mark or device, a description of which shall have been filed as provided in s. 506.31; or shall deface, obliterate, destroy, cover up or otherwise remove or conceal any such name, mark or device thereon, without the written consent of, or unless the same shall have been purchased from, the owner or proprietor thereof; provided, however, that no person or corporation to whom such milk, cream, ice cream, coated ice cream, imitation ice cream, ice-cream mixtures or compounds or any other similar product frozen substantially to the consistency of ice cream, shall have been delivered in bottles, boxes, tins, ice-cream containers, packages, wrappers, cabinets, refrigerators, equipment or other receptacles or containers by the owners or proprietors thereof, shall be deemed to have violated the provisions of this law by having in his possession any such marked receptacles, unless such person or corporation, willfully and with the intention of unlawfully converting, retains such receptacles for a period longer than is reasonably necessary after the contents placed therein by the owner or proprietor thereof have been removed therefrom.

History.—s. 7, ch. 21969, 1943.

506.36 Penalties for illegal use.—Any person, acting for himself or as the agent of any person, firm or corporation, who shall violate the provisions of this law, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 21969, 1943; s. 472, ch. 71-136.

506.37 Containers; obtaining possession.—The owner or proprietor or his or its agents may take possession of any such bottles, boxes, tins, ice-cream container, packages, wrapper, cabinets, refrigerators,

equipment or other receptacles or containers used in violation of this law, whether such receptacles or containers be full or partly full of any liquid, beverage or other substance, or empty, and shall not be liable in damages therefor, or for any trespass arising out of such taking possession. And if the party or parties having possession of such receptacles or containers refuses to empty the same of the contents contained therein immediately upon notice and demand by the owner or proprietor thereof or his or its agent, then such owner, proprietor or agent may empty such receptacle or container and shall not be liable therefor.

History.—s. 9, ch. 21969, 1943.

506.38 Complaints before county court judge.—

When any person shall complain on oath or affirmation to any county court judge that any person or corporation has violated any of the provisions of this law, the court to whom such complaint is presented shall issue process at the suit of the state, which process may be either a summons or a warrant against the person or corporation so charged, which process, when in the nature of a warrant, shall be returnable forthwith, and when in the nature of a summons shall be returnable in not less than 2 nor more than 10 days, and shall be served at least 1 day before its return. Such complaint and such process shall state in general terms a violation of this law. On the return of such process, or at any time to which the trial of the case shall be adjourned, the county court judge issuing the same shall proceed in a summary manner to hear testimony and determine and give judgment in the case without the filing of any pleadings, and if the defendant or defendants be convicted, shall impose the penalty or penalties by this law provided. It shall not be necessary to take or keep any record of the evidence or testimony taken on such trial. Service of summons upon a person other than a corporation may be made either personally or by leaving a copy at his dwelling house or usual place of abode; service upon a corporation may be made by delivering a copy of the summons to any officer or employee of such corporation who may be found in this state.

History.—s. 10, ch. 21969, 1943; s. 26, ch. 73-334.

506.39 Search warrants; procedure to obtain.—

Whenever any person shall make oath before any county court judge that he has reason to believe and does believe that any bottles, boxes, tins, ice-cream containers, packages, wrappers, cabinets, refrigerators, equipment, or other receptacles or containers, the property of any person or corporation who has complied with the provisions of ss. 506.31 and 506.32, are being filled, sold, bought, given, taken, possessed, used, disposed of, or trafficked in by any person or corporation in violation of this law, such county court judge shall issue a search warrant to discover and obtain such receptacles or containers and to bring before such judge the person or persons in whose possession such bottles, boxes, tins, ice cream containers, packages, wrappers, cabinets, refrigerators, equipment, or other receptacles or containers may be found, and if any such receptacles or containers are found in the possession of any such person or persons in violation of the provisions of this

law, the county court judge who issued the process shall proceed to trial and judgment in the manner provided for in s. 506.38, and upon judgment, shall also award possession of the receptacles or containers so taken under such warrant to the owners or proprietors thereof.

History.—s. 11, ch. 21969, 1943; s. 26, ch. 73-334.

506.40 Presumptive evidence of violations.—

The presence upon any bottle, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container, or any name, mark or device which has been registered and published as provided for in ss. 506.31 and 506.32, shall be presumptive evidence in any proceeding or trial, that the owner or proprietor of such mark or device is the owner or proprietor of such bottle, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container.

History.—s. 12, ch. 21969, 1943.

506.41 Deposit for container not a sale.—

The requiring, taking or accepting of any deposit upon delivery of any bottle, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container, bearing a name, mark or device which has been registered and published as provided for by ss. 506.31 and 506.32 shall not be deemed a sale thereof, either optional or otherwise.

History.—s. 13, ch. 21969, 1943.

506.42 Penalties, generally; judgments and pleadings.—

Any person or corporation which violates the provisions of this law, or of any of the amendments hereof or supplements hereto, shall be liable to a penalty of \$5 for the first offense, for each bottle, box, tin, ice-cream container, package, cabinet, refrigerator, equipment or other receptacle or container so filled, sold, bought, given, taken, used, disposed of, trafficked in or possessed in violation of the provisions of this law; and a penalty of double that amount for the second and each subsequent offense; which penalty may be recovered by an action for the recovery of a debt, by the owner or proprietor of any such bottle, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container, or his agent in any court of this state having cognizance thereof. The pleadings shall conform in all respects to the practice prevailing in the court in which any such action shall be instituted, but no pleading or process shall be set aside or invalidated by reason of any formal or technical defects therein if the same contains a statement of the nature of the alleged violation and of the section of this law alleged to have been violated, and upon the attention of the court being called to any such formal or technical defect the same shall be immediately corrected and the said pleading or process amended as a matter of course, and as to all other defects in pleadings or process the same may be amended in the discretion of the court, as in any other action or proceeding in said court.

History.—s. 14, ch. 21969, 1943.

506.43 Executions on judgments.—

When judgment shall be rendered against any defendant other than a corporation, execution shall be issued against his

goods or chattels without any order of the court for that purpose first had and obtained. In case judgment shall be rendered against a body corporate, execution shall be issued against the goods and chattels of said corporation as in other actions of debt.

History.—s. 15, ch. 21969, 1943.

506.44 Prior registrations recognized.—Any person or corporation having heretofore filed in any of the offices mentioned in s. 506.31, a description of the names, marks or devices, upon his or its property therein mentioned, and having caused the same to be published, according to the law existing at the time of such filing and publication, shall not be required to again file and publish such description in order to be entitled to the benefits of this law, but may avail himself or itself of any or all of the provisions, modes of procedure and methods of protection provided for herein, marks or devices under and according to the provisions of this law.

History.—s. 16, ch. 21969, 1943.

506.45 Statutes and laws unaffected.—Any proceeding now pending under any other law which this law may repeal shall not abate, but may be proceeded into final judgment as if this law had not been passed; and provided, further, that nothing in this law contained shall be construed to repeal or modify or affect any existing laws for the protection of producers or shippers of milk or concerning milk cans.

History.—s. 18, ch. 21969, 1943.

506.501 Carts, Cases, Baskets, Boxes, and Containers Act; short title.—Sections 506.501–506.519 shall be known and may be cited as the "Carts, Cases, Baskets, Boxes, and Containers Act."

History.—s. 1, ch. 83–262; s. 1, ch. 87–80.

506.502 Definitions.—For the purposes of ss. 506.501–506.519, the term:

(1) "Bakery container" means any permanent type of container which is used by a bakery, distributor, retailer, or food service establishment or the agent of any of them as a means to transport, store, or carry bakery products.

(2) "Dairy case" means a wire or plastic container which holds 16 quarts or more of beverage and is used by a distributor, retailer, or its agent as a means to transport, store, or carry dairy products.

(3) "Department" means the Department of State.

(4) "Egg basket" means any permanent type of container which contains four dozen or more shell eggs and is used by a distributor, retailer, or its agent as a means to transport, store, or carry eggs.

(5) "Laundry cart" means a basket which is mounted on wheels and used in a coin-operated laundry or drycleaning establishment by a customer or an attendant for the purpose of transporting laundry and laundry supplies.

(6) "Name or mark" means any permanently affixed or permanently stamped name or mark which has been registered with the Department of State pursuant to s. 506.503 and is used for the purpose of identifying the registered owner of dairy cases, egg baskets, poultry boxes, or bakery containers.

(7) "Parking area" means a lot or other property provided by a retail establishment for the use of customers to park automobiles or other vehicles while doing business in that establishment.

(8) "Poultry box" means any permanent type of container which is used by a processor, distributor, retailer, food service establishment, or its agent as a means to transport, store, or carry poultry.

(9) "Registered owner" means any person, firm, corporation, or association registered with the department as the owner of an identifying name or mark described in subsection (6).

(10) "Shopping cart" means a basket mounted on wheels or a similar device which is generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

History.—s. 1, ch. 83–262; s. 2, ch. 87–80.

506.503 Shopping carts, laundry carts, dairy cases, egg baskets, poultry boxes, and bakery containers; registration.—Any person, firm, corporation, or association owning shopping carts, laundry carts, dairy cases, egg baskets, poultry boxes, or bakery containers

may register with the Department of State a description of the name or mark affixed or stamped on such carts, cases, baskets, boxes, or containers for identification purposes. If the department determines that the name or mark is not a duplication of any name or mark previously recorded in its files and does not so closely resemble any other recorded name or mark as to be misleading or deceiving, it shall register and record such name or mark in a file to be provided and kept by the department for that purpose, along with the name and address of the registered owner of the name or mark. If the department determines that the name or mark so applied for is a duplication of any name or mark previously recorded by the department, or so closely resembles the previously recorded name or mark as to be misleading or deceiving, the application shall be denied; and the applicant may register some other name or mark in the manner described in this section.

History.—s. 1, ch. 83–262; s. 89, ch. 85–81; s. 3, ch. 87–80.

506.505 Egg baskets; designation of owner.—Any person, firm, corporation, or association engaged in receiving, packing, handling, or selling eggs in permanent baskets which contain four dozen or more shell eggs may, in order to designate the ownership of such baskets or distinguish such baskets from other similar baskets, adopt, own, and use any name or mark and permanently affix or stamp such name or mark on any egg basket, except cardboard, fiberboard, or corrugated containers, which egg basket is owned by such person, firm, corporation, or association.

History.—s. 1, ch. 83–262.

506.506 Poultry boxes; designation of owners.—Any person, firm, corporation, or association engaged in receiving, packing, handling, or selling poultry in permanent boxes may, in order to designate the ownership of such boxes or distinguish such boxes from other similar boxes, adopt, own, and use any name or mark and permanently affix or stamp such name or mark on any poultry box, except cardboard, fiberboard, or wood contain-

ers, which poultry box is owned by such person, firm, corporation, or association.

History.—s. 1, ch. 83-262.

506.507 Bakery containers; designation of owners.—Any person, firm, corporation, or association engaged in receiving, packing, handling, or selling bakery products in permanent containers may, in order to designate the ownership of such containers or distinguish such containers from other similar containers, adopt, own, and use any name or mark and permanently affix such name or mark on any bakery container it owns, except a cardboard, fiberboard, or corrugated container.

History.—s. 4, ch. 87-80.

506.508 Illegal use of dairy cases, egg baskets, poultry boxes, or bakery containers.—No person, firm, corporation, or association shall use for any purpose any container which is identified with or by any name or mark registered with the department as provided in s. 506.503 unless such person is the registered owner of the name or mark. No person, firm, corporation, or association shall deface, obliterate, destroy, cover up, or otherwise remove or conceal any such name or mark without the written consent of the registered owner.

History.—s. 1, ch. 83-262; s. 5, ch. 87-80.

506.509 Possession of shopping carts, laundry carts, dairy cases, egg baskets, poultry boxes, or bakery containers.—Any person who is in possession of any shopping cart, laundry cart, dairy case, egg basket, poultry box, or bakery container with a registered name or mark shall be presumed to be in possession of stolen property and is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082.

History.—s. 1, ch. 83-262; s. 6, ch. 87-80.

506.511 Transportation of dairy cases, egg baskets, poultry boxes, or bakery containers; bill of lading. It is unlawful for any common carrier or private carrier for hire, except those carriers engaged in the transporting of dairy products, eggs, poultry, or bakery products to and from farms or bakeries where produced, to receive or transport any container marked with a registered name or mark unless such carrier has in his possession a bill of lading or invoice therefor.

History.—s. 1, ch. 83-262; s. 90, ch. 85-81; s. 7, ch. 87-80.

506.513 Illegal use of shopping carts and laundry carts.—It is a violation of ss. 506.501-506.519:

(1) To remove any shopping cart or laundry cart from the premises or parking area of a retail establishment with intent to deprive temporarily or permanently the owner of such cart, or the retailer, of possession of the cart.

(2) To remove a shopping cart or laundry cart, with-

out written authorization, from its owner or from the premises or parking area of any retail establishment.

(3) To remove, obliterate, or alter any serial number or sign affixed to a shopping cart or laundry cart.

History.—s. 1, ch. 83-262.

506.514 Unlawful removal of dairy cases.—It is a violation of ss. 506.501-506.519 for any person not in lawful possession of a dairy case to remove a dairy case from the premises, the parking area, or any other area of any retail establishment, or from any dairy delivery vehicle, if:

(1) The dairy case is marked on at least two sides with a registered name or mark; and

(2) A notice to the public, warning that use by any person other than the registered owner is punishable by law, is visibly displayed on the dairy case.

History.—s. 1, ch. 83-262.

506.515 Unlawful removal of egg baskets, poultry boxes, or bakery containers.—It is a violation of ss. 506.501-506.519 for any person not in lawful possession of an egg basket, poultry box, or bakery container to remove such egg basket, poultry box, or bakery container from the premises, the parking area, or any other area of any processor, bakery, distributor, retailer, or food service establishment.

History.—s. 1, ch. 83-262; s. 8, ch. 87-80.

506.517 Deposits.—The requiring, taking, or accepting of any deposit upon delivery of any shopping cart, laundry cart, dairy case, egg basket, poultry box, or bakery container shall not be deemed a sale thereof, optional or otherwise.

History.—s. 1, ch. 83-262; s. 9, ch. 87-80.

506.518 Penalty.—Any person who violates any of the provisions of ss. 506.501-506.519 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 83-262; s. 10, ch. 87-80; s. 126, ch. 91-224.

506.519 Scope of ss. 506.501-506.519.—

(1) Sections 506.501-506.519 do not apply to the owner of a shopping cart, laundry cart, dairy case, egg basket, poultry box, or bakery container; to a retailer; to the agents or employees of such owner or retailer; or to a customer who has written consent from the owner of a shopping cart, laundry cart, dairy case, egg basket, poultry box, or bakery container, or from a retailer, to possess such cart, case, basket, box, or container or remove it from the premises or the parking area of the retail establishment.

(2) The provisions of ss. 506.501-506.519 are intended to be supplemental to the provisions of ss. 506.01-506.45 and any other provisions of law governing the subject matter of ss. 506.501-506.519.

History.—s. 1, ch. 83-262; s. 11, ch. 87-80.