

CHAPTER 567

LOCAL OPTION ELECTIONS

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567.001 Alcoholic content of intoxicating liquors.

For the purposes of this chapter, any liquor, wine, or beer containing more than 6.243 percent of alcohol by volume is deemed and held to be an intoxicating liquor, wine, or beer and is subject to the provisions of this chapter.

History.—s. 2, ch. 84-299; s. 17, ch. 86-269.

567.01 Petition, order, notice of election.—

(1) The board of county commissioners of each county shall order an election to decide whether the sale of intoxicating liquors, wines, or beer shall be prohibited in said county and if not prohibited, to decide the method of sale, upon the presentation to said board at a regular or special meeting, of a written application asking for such a determination in the county in which said application is made signed by one-fourth of the registered voters of the county. The signature of each registered voter shall be personally signed to such application; provided, however, a copy of said petition shall be dated and filed with the clerk of the circuit court of the county in which such election is to be held prior to procuring the signature of any registered voter thereon; and such petition must be completed and presented to the board of county commissioners within 120 days from the date said copy of said petition is originally filed with the clerk of the circuit court; and if not so done, said petition shall be held to be invalid.

(2) The election so ordered shall be to decide whether the sale of intoxicating liquors, wines, or beer shall be prohibited or permitted in said county, and to decide also whether such sale, if permitted by said election, shall be restricted to sales by the package as hereinafter defined.

(3) The term "Sales by the package" is defined to mean sales made in sealed containers, for consumption off the premises where sold.

(4) Such an election shall not be ordered oftener than once every 2 years. All orders for such election shall be in writing and shall be entered upon the minutes of the board but this requirement shall be directory only.

(5) Upon the making of the order for an election as aforesaid, the board shall cause its clerk to give at least 30 days' notice of said election by publishing a copy of the order for election in one newspaper in each and every town in said county in which a newspaper or newspapers be published, and if no newspaper be published within the county, then by posting at least 10 copies of said order in 10 of the most public places in said county, one of which shall be the courthouse door. Proof of publication or proof of posting shall be filed with the board and shall be made as provided by ss. 49.10 and 49.11, for making proof of publication and proof of posting incident to constructive service of process, except that the provisions of said sections for recording shall not apply. All proofs of publication and of posting shall be entered upon the minutes of the board, but this requirement shall be directory only.

(6) It is the purpose and intent of the Legislature that such election shall obviate the necessity for holding two separate elections by determining in one election:

(a) Whether the sale of intoxicating liquors, wines, or beer shall be prohibited or permitted, and

(b) If such sales are determined to be permitted, to further determine whether the sales so made shall be limited to sales by the package as hereinbefore defined, or whether sales by the drink on the premises, as well as sales by the package, may be permitted.

A majority of those legally voting at such election must cast their votes for selling intoxicating liquors, wines, or beer in order that the results of the election on the second question shall be effective and binding.

History.—s. 1, ch. 3700, 1887; RS 857; GS 1209; s. 1, ch. 6180, 1911; CGL 1936 Supp. 4151(196); s. 1, ch. 23747, 1947; s. 1, ch. 57-119; s. 1, ch. 85-161.

567.02 Registration and qualification of electors.—

For the election under s. 567.01 electors may be registered as provided in the general law for registration for special elections and they shall have the same qualifications for and prerequisites to voting as in elections under the general election laws.

History.—s. 1, ch. 3700, 1887; RS 858; GS 1210; CGL 1936 Supp. 4151(197).

567.03 Mode of holding election.—The election under s. 567.01 shall be held and conducted in the manner prescribed by law for holding general elections, except as herein provided.

History.—s. 1, ch. 3700, 1887; RS 859; GS 1211; CGL 1936 Supp. 4151(198).

567.04 Time of holding elections.—All elections ordered under this chapter shall be held within 60 days from the time of presenting such application, but if any such election should thereby take place within 60 days of any state or national election, it shall be held within 60 days after any such state or national election.

History.—s. 1, ch. 3700, 1887; RS 860; GS 1212; CGL 1936 Supp. 4151(199).

567.05 Inspectors, returns, and canvass.—Inspectors of election shall be appointed and qualified as in cases of general elections, and they shall canvass the vote cast and make due returns of the same to the

county commissioners without delay. The county canvassing board shall canvass the returns and declare the result, and cause the same to be recorded as provided in the general law concerning elections, as far as applicable.

History.—s. 1, ch. 3700, 1887; RS 861; GS 1213; CGL 1936 Supp. 4151(200).

567.06 Form of ballot; canvassing votes.—

(1) At the election under s. 567.01, the ballot used shall be printed on one side of a plain white piece of paper in the form following:

OFFICIAL BALLOT NO. _____

OFFICIAL BALLOT NO. _____

OFFICIAL ELECTION BALLOT
_____(Month)____, _____(Day)____, _____(Year)____
PRECINCT NUMBER _____
____ County, Florida

INSTRUCTIONS: Local Option Election on
TWO QUESTIONS:

QUESTION NUMBER 1 is to decide whether the sale of intoxicating liquors, wines, or beer containing more than 6.243 percent of alcohol by volume shall be prohibited or permitted in _____ County, Florida.

QUESTION NUMBER 2 is to decide whether the sale of intoxicating liquors, wines, or beer shall be restricted to sales made in sealed containers, for consumption off the premises where sold, such sales being described as "Sales by the package." The results on question number 2 shall be effective and binding only in the event a majority of those voting at the election shall cast their votes "For Selling Intoxicating Liquors, Wines, or Beer" containing more than 6.243 percent of alcohol by volume on question number 1.

Vote on both questions!

If you fail to vote on question number 1, your vote on question number 2 will not be counted!

To vote, make a crossmark (X) at the right of your choice on each question:

QUESTION NO. 1:

For Selling Intoxicating Liquors,
Wines, or Beer containing more than 6.243 percent of alcohol by volume

Against Selling Intoxicating Liquors,
Wines, or Beer containing more than 6.243 percent of alcohol by volume

QUESTION NO. 2:

For Sales by the Package and Drink

For Sales by the Package Only

(2) No vote on question number 2 shall be counted or considered in determining the results on said question unless the elector casting said vote shall have voted also upon question number 1; provided that:

(a) If a majority of those legally voting at said election cast their votes on question number 1, the vote of said majority shall be determinative of said question and the votes cast on question number 2 shall in no way affect or nullify the result of the vote on question number 1; provided that

(b) A majority of votes legally cast on question number 2 shall be determinative of said question and the number of votes cast on question number 1 shall in no way affect or nullify the result of the vote on question number 2 unless a majority of the votes legally cast at said election shall be "Against Selling Intoxicating Liquors, Wines, or Beer";

(c) Provided, further, that voting machines may be used in counties which have adopted voting machines for use in general elections.

History.—s. 1, ch. 3700, 1887; RS 862; GS 1214; CGL 1936 Supp. 4151(201); s. 2, ch. 23747, 1947; s. 2, ch. 85-161; s. 8, ch. 93-134.

567.07 Results of election.—

(1) Should a majority of those legally voting at any election under s. 567.01 cast their votes "Against Selling Intoxicating Liquors, Wines, or Beer" on question number 1, then no intoxicating liquors, wines, or beer shall be sold in the county in which said election was held until otherwise determined by an election, which shall not be held oftener than once in every 2 years.

(2) Should a majority of those legally voting at any such election cast their votes "For Selling Intoxicating Liquors, Wines, or Beer" on question number 1 and a majority of votes legally cast on question number 2 be cast "For Sales by the Package Only," then:

(a) No intoxicating liquors, wines, or beer shall be sold in said county that are not contained in sealed containers, and

(b) No intoxicating liquors, wines, or beer shall be consumed in said county on the premises where such intoxicating liquors, wines, or beer are sold or on any other premise under the control, either directly or indirectly, of the licensee, until otherwise determined in an election, which shall not be held oftener than once in every 2 years.

(3) In the event a majority of those legally voting in any such election cast their vote "For Selling Intoxicating Liquors, Wines, or Beer" on question number 1 and a majority of the votes legally cast on question number 2 be not cast "For Sales by the Package Only," then intoxicating liquors, wines, or beer may be sold as otherwise provided by law in said county until otherwise determined in an election, which shall not be held oftener than once in every 2 years.

History.—s. 1, ch. 3700, 1887; RS 863; GS 1215; CGL 1936 Supp. 4151(202); s. 3, ch. 23747, 1947; s. 11, ch. 25035, 1949; s. 3, ch. 85-161.

567.08 Refund of unused portion of state license tax.—

When any county votes by an election to discontinue permitting the sale of intoxicating liquors, wines, or beer, prior to the date of expiration of any license issued by the state for the sale of intoxicating liquors, wines, or beer in such county, the fee for the unexpired and unused portion of said license shall be refunded to the licensee by warrant drawn by the State Comptroller on the State Treasurer who shall pay such warrants from any moneys in the State Treasury not otherwise appropriated.

History.—s. 1, ch. 5479, 1905; CGL 1936 Supp. 4151(203).

567.09 Refund of unused portion of county license

tax.—The county commissioners of such county voting by election to discontinue permitting the sale of intoxicating liquors, wines, or beer, shall refund to the licensee the fee for the unexpired and unused portion of any such license issued to him by said county.

History.—s. 2, ch. 5479, 1905; CGL 1936 Supp. 4151(204).

567.10 Refund of unused portion of municipal license tax.

—Any municipality in such county voting by election to discontinue permitting the sale of intoxicating liquors, wines, or beer, shall refund to the licensee the fee for the unexpired and unused portion of any such license issued to him by said municipality.

History.—s. 3, ch. 19140, 1939; s. 1, ch. 20719, 1941.

567.11 Evidence of legal election.

—In all prosecutions by the state for the unlawful sale of intoxicating liquors, wines, or beer contrary to prohibition regulations, the introduction of a copy of the record of the result of the canvass of the returns of the election as made by the county canvassing board and recorded in the minutes of the proceedings of the board of county commissioners, or in any book used as a book of record in the office of the clerk of the circuit court, duly certified to by the clerk of the circuit court, for such county in which an election shall have been held, shall be taken as prima facie evidence that said election was legally called, conducted, and held.

History.—s. 7, ch. 4930, 1901; GS 3559; s. 1, ch. 7289, 1917; CGL 1936 Supp. 7600(1).

567.12 Proceedings to test legality of election.

—Any resident of any county in this state in which an election may be held or which may hereafter be held to determine whether the sale of intoxicating liquors, wines, or beer should be prohibited or permitted in such county and, if permitted by such election, to determine whether such sale should be restricted to "Sales by the package," as such term is defined in s. 567.01, shall have the right to test the legality and regularity of such election by suit in equity in the circuit court of such county to be filed against the county commissioners thereof;

and in case any such election shall be adjudged to be illegal and void in any such suit such judgment shall have the effect of nullifying such election in toto as to all inhabitants of such county whether they were parties to such suit or not; provided, no such suit shall be brought to test the validity of any such election unless the same shall be instituted within 90 days after the recording of the declaration of the result of any such election in the minutes of the board of county commissioners.

History.—s. 1, ch. 5247, 1903; GS 1216; CGL 1936 Supp. 4151(205); s. 4, ch. 23747, 1947; s. 2, ch. 29737, 1955.

567.13 Sale by the package only.—In any county that has voted "For Selling Intoxicating Liquors, Wines, or Beer" and also has voted to restrict such sale to "Sales by the Package Only" as herein provided, thereupon:

(1) It shall be unlawful for anyone to sell, or cause to be sold, any intoxicating liquors, wines, or beer not contained in sealed containers.

(2) It shall be unlawful for anyone who sells, or causes to be sold, any intoxicating liquors, wines, or beer to permit such intoxicating liquors, wines, or beer to be consumed on the premises where such intoxicating liquors, wines, or beer are sold or on any other premise under the control, either directly or indirectly, of the licensee.

(3) It shall be unlawful for anyone to consume any intoxicating liquors, wines, or beer on the premises where such intoxicating liquors, wines, or beer are sold or on any other premise under the control, either directly or indirectly, of the licensee.

History.—s. 5, ch. 23747, 1947; s. 4, ch. 85-161.

567.14 Penalty for violation.—Any person violating any of the provisions of s. 567.13 shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; provided, that any person who shall have been convicted of a violation of any of the provisions of s. 567.13 and shall thereafter be convicted of a further violation of any of said provisions, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 6, ch. 23747, 1947; s. 577, ch. 71-136.