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**CHAPTER 565**
**LIQUOR**

- 565.05 Purchase of distilled spirits by licensed clubs; size of individual containers.
- 565.09 Brands or labels to be registered; qualification to do business; fee; revocation.
- 565.095 Licensure as primary American source of supply.

**565.05 Purchase of distilled spirits by licensed clubs; size of individual containers.**—It is unlawful for any person holding a license as a club for the sale of distilled spirits to purchase any of said distilled spirits in individual containers larger than 1.75 liters or 59.18 ounces, or smaller than 0.50 liter or 16.9 ounces.

**History.**—s. 1, ch. 19500, 1939; CGL 1940 Supp. 7648(34); s. 5, ch. 72-230; s. 3, ch. 72-272; s. 1, ch. 75-96; s. 200, ch. 77-104; s. 1, ch. 79-143; s. 9, ch. 96-419.

**Note.**—Former s. 569.03.

**565.09 Brands or labels to be registered; qualification to do business; fee; revocation.**—[Repealed by s. 12, ch. 96-419.]

**565.095 Licensure as primary American source of supply.**—

(1) **DEFINITION.**—"Primary American source of supply" means the manufacturer, rectifier, or bottler, or their legally authorized exclusive agent, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer. It shall also include any applicant who directly purchases spirituous liquors from a manufacturer, rectifier, or bottler who represents that there is no primary American source of supply for the brand, and such applicant must petition the division for approval of licensure.

(2) **TAX CONTROL LICENSURE REQUIRED.**—For purposes of tax revenue control, no person, firm, corporation, or other entity which is the primary American source of supply as defined herein may sell, offer for sale, accept orders for sale, ship, or cause to be shipped into this state any spirituous liquors to any distributor or importer within the state without having first obtained licensure as a primary American source of supply on forms provided by, and in such manner as prescribed by, the division. Applicants for licensure as a primary American source of supply shall be exempt from the requirements and qualification standards set forth in ss. 561.15 and 561.17.

(3) **LICENSE FEES.**—Licensure as a primary American source of supply authorizes the shipment of distilled spirits manufactured within and without the state to licensed distributors, importers, manufacturers, bonded warehouses, and registered exporters within the state. The annual license fee for a primary American source of supply is \$30 for each brand that requires a federal label approval and is scheduled for shipment to a licensed

distributor or importer within this state for the purpose of being sold within the state. The annual license fee shall be submitted with the application for initial licensure. This license shall be renewed each year, and the renewal fee shall be \$30 for each brand shipped into the state during the preceding year.

(4) **CERTAIN INTERSTATE AND FOREIGN SHIPMENTS PROHIBITED.**—No holder of a distributor's license or importer's license as classified by s. 561.14(2) may ship or cause to be shipped into this state, or accept delivery of from another state or a foreign country, any spirituous liquors except directly from a primary American source of supply.

(5) **PRIVATE LABELS.**—Nothing herein shall prohibit the ownership by vendors of brand names of distilled spirits and vinous beverages commonly known as private labels; provided, that such ownership and use thereof does not otherwise violate the Beverage Law.

(6) **RULEMAKING AUTHORITY.**—The division shall promulgate rules as necessary to carry out the purpose of this section.

**History.**—ss. 2, 3, ch. 78-135; s. 2, ch. 85-58; s. 11, ch. 96-419.

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**CHAPTER 570**
**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

- 570.02 Definitions of terms.
- 570.44 Division of Agricultural Environmental Services; powers and duties.
- 570.45 Director; duties.
- 570.48 Division of Fruit and Vegetables; powers and duties; records.
- 570.544 Division of Consumer Services; director; powers; processing of complaints; records.
- 570.903 Direct-support organization.
- 570.953 Agriculture Center and Horse Park Authority; donor identity; records; confidentiality.

**570.02 Definitions of terms.**—The following words and phrases as used in this chapter and in the agricultural laws of this state, unless the context otherwise requires, shall have the meanings respectively ascribed to them in this section:

(1) "Agriculture" means the science and art of production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production. For the purposes of marketing and promotional activities, seafood shall also be included in this definition.

(2) "Agricultural business products" means nonconsumable products used in the producing, processing, distribution, and marketing of consumable farm products, including, but not limited to, machinery, equipment, and supplies.

(3) "Agricultural marketing facilities" means state-owned wholesale and retail markets managed by the Bureau of State Farmers' Market.

(4) "Commissioner" means the Commissioner of Agriculture.

(5) "Department" means the Department of Agriculture and Consumer Services.

**History.**—s. 1, ch. 59-54, ss. 14, 35, ch. 69-106; s. 215, ch. 71-377; s. 1, ch. 87-36; s. 1, ch. 88-341; s. 5, ch. 92-291; s. 1, ch. 93-169; s. 11, ch. 94-335; s. 21, ch. 96-247.

**570.44 Division of Agricultural Environmental Services; powers and duties.**—The duties of the Division of Agricultural Environmental Services include, but are not limited to:

(1) Inspecting and drawing samples of: commercial feeds offered for sale in this state and enforcing those provisions of chapter 580 authorized by the department; seeds offered for sale in this state and enforcing those provisions of chapter 578 authorized by the department; certified seed grown in this state; fertilizers offered for sale in this state and enforcing those provisions of chapter 576 authorized by the department; and pesticides offered for sale in this state, and soil and water in this state for the presence of pesticides, and enforcing those provisions of chapter 487 authorized by the department.

(2) Conducting those general inspection activities in regard to weights, measures, and standards of articles offered for sale in this state and enforcing those provisions of chapter 531 as are authorized by the department.

(3) Supporting the Pesticide Review Council and reviewing and evaluating technical and scientific data associated with the production, manufacture, storage, transportation, sale, or use of any article or product with respect to any statutory authority which is conferred on the department. The department is authorized to establish positions within the division for the employment of experts in the fields of toxicology, hydrology, and biology to conduct such reviews and evaluations. The department is also authorized to establish appropriate clerical support positions to implement the duties and responsibilities of the division.

(4) Enforcing and implementing the responsibilities of chapter 582, and the rules relating to soil and water conservation.

(5) Analyzing samples of fertilizer offered for sale in this state, as required under chapter 576.

(6) Analyzing samples of pesticide formulations offered for sale in this state and tank mix, soil, water, and other environmental samples related to pesticide use investigations, as required under chapter 487.

(7) Analyzing samples of commercial feed offered for sale in this state, as required under chapter 580.

(8) Analyzing samples of vegetables, agricultural, flower, and forest tree seed offered for sale in this state, as required under chapter 578.

(9) Investigating, evaluating, and developing new or improved methodology to enhance the analytical capability and efficiency of all divisional laboratories and performing other related analyses as deemed necessary.

**History.**—s. 1, ch. 59-54; s. 7, ch. 61-407; ss. 4, 14, 35, ch. 69-106; s. 13, ch. 83-310; s. 7, ch. 84-165; s. 24, ch. 92-291; s. 24, ch. 93-169; s. 1, ch. 96-231; s. 11, ch. 96-407.

**570.45 Director; duties.**—

(1) The director of the Division of Agricultural Environmental Services shall be appointed by the commissioner and shall serve at the commissioner's pleasure.

(2) The director shall supervise, direct, and coordinate the activities of the division and enforce the provisions of chapters 388, 482, 487, 501, 504, 531, 570, 576, 578, 580, and 582 and any other chapter necessary to carry out the responsibilities of the division.

**History.**—s. 1, ch. 59-54; ss. 14, 35, ch. 69-106; s. 25, ch. 92-291; s. 12, ch. 96-407.

**570.48 Division of Fruit and Vegetables; powers and duties; records.**—The duties of the Division of Fruit and Vegetables include, but are not limited to:

(1) Performing the duties relating to the inspection and certification of fresh citrus fruit shipments for maturity and grade required by rules promulgated under the Florida Citrus Code; performing the inspection and certification duties assigned in connection with regulations issued under federal or state marketing agreements or orders; and performing the other inspection and certification assignments requested by and agreed upon with the applicant.

(2)(a) Performing the duties relating to inspection and certification of the maturity and condition of fresh citrus fruits to be processed required by the rules promulgated under the Florida Citrus Code.

(b) Inspecting and certifying the grade, quality, or condition of the finished processed pack, as required by rules promulgated under the Florida Citrus Code.

(c) Performing the inspection and certification duties as are assigned in connection with regulations issued under federal or state marketing agreements or orders for other fruit and vegetables.

(d) Conducting inspections of internal quality for any fruit or vegetable.

(e) Performing other inspection and certification assignments as requested by and agreed upon with the applicant.

(3) Maintaining the records of the division. The records of the division are public records; however, trade secrets as defined in s. 812.081 are confidential and exempt from the provisions of s. 119.07(1). This section shall not be construed to prohibit:

(a) A disclosure necessary to enforcement procedures.

(b) The department from releasing information to other governmental agencies. Other governmental agencies that receive confidential information from the department under this subsection shall maintain the confidentiality of that information.

(c) The department or other agencies from compiling and publishing appropriate data regarding procedures, yield, recovery, quality, and related matters, provided such released data do not reveal by whom the activity to which the data relate was conducted.

(4) Performing such duties relating to inspection and certification of vegetables, other fruits, melons, and nuts as are requested by and agreed upon with the applicant and performing such inspection and certification duties as are assigned in connection with regulations issued under federal or state marketing agreements or orders.

(5) Performing such duties relating to enforcement of the citrus bond and license law as are required by chapter 601.

(6) Performing analyses on waxes, dyes, and other substances used on citrus fruit and issuing authorization

for the use of such waxes, dyes, and other substances; issuing equipment to inspectors and maintaining the equipment; conducting necessary technical investigations relative to inspectional procedures; and carrying out the technical duties prescribed under the arsenical spray provisions of chapter 601 and other technical duties prescribed by the department.

**History.**—s. 1, ch. 59-54; ss. 4, 14, 35, ch. 69-106; s. 1, ch. 82-165; s. 50, ch. 83-216; s. 9, ch. 84-165; s. 3, ch. 92-4; ss. 3, 4, ch. 92-290; ss. 29, 30, ch. 92-291; s. 25, ch. 93-189; s. 348, ch. 96-406.

**570.544 Division of Consumer Services; director; powers; processing of complaints; records.—**

(1) The director of the Division of Consumer Services shall be appointed by and serve at the pleasure of the commissioner.

(2) The Division of Consumer Services may:

(a) Conduct studies and make analyses of matters affecting the interests of consumers.

(b) Study the operation of laws for consumer protection.

(c) Advise and make recommendations to the various state agencies concerned with matters affecting consumers.

(d) Assist, advise, and cooperate with local, state, or federal agencies and officials in order to promote the interests of consumers.

(e) Make use of the testing and laboratory facilities of the department for the detection of consumer fraud.

(f) Report to the appropriate law enforcement officers any information concerning violation of consumer protection laws.

(g) Assist, develop, and conduct programs of consumer education and consumer information through publications and other informational and educational material prepared for dissemination to the public, in order to increase the competence of consumers.

(h) Organize and hold conferences on problems affecting consumers.

(i) Recommend programs to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services.

(3) In addition to the powers, duties, and responsibilities authorized by this or any other chapter, the Division of Consumer Services shall serve as a clearinghouse for matters relating to consumer protection, consumer information, and consumer services generally. It shall receive complaints and grievances from consumers and promptly transmit them to that agency most directly concerned in order that the complaint or grievance may be expeditiously handled in the best interests of the complaining consumer. If no agency exists, the Division of Consumer Services shall seek a settlement of the complaint using formal or informal methods of mediation and conciliation and may seek any other resolution of the matter in accordance with its jurisdiction.

(4) If any complaint received by the Division of Consumer Services concerns matters which involve concurrent jurisdiction in more than one agency, duplicate copies of the complaint shall be referred to those offices deemed to have concurrent jurisdiction.

(5)(a) Any agency, office, bureau, division, or board of state government receiving a complaint which deals with consumer fraud or consumer protection and which is not within the jurisdiction of the receiving agency, office, bureau, division, or board originally receiving it, shall immediately refer the complaint to the Division of Consumer Services.

(b) Upon receipt of such a complaint, the Division of Consumer Services shall make a determination of the proper jurisdiction to which the complaint relates and shall immediately refer the complaint to the agency, office, bureau, division, or board which does have the proper regulatory or enforcement authority to deal with it.

(6)(a) The office or agency to which a complaint has been referred shall within 30 days acknowledge receipt of the complaint and report on the disposition made of the complaint. In the event a complaint has not been disposed of within 30 days, the receiving office or agency shall file progress reports with the Division of Consumer Services no less frequently than 30 days until final disposition.

(b) The report shall contain at least the following information:

1. A finding of whether the receiving agency has jurisdiction of the subject matter involved in the complaint.

2. Whether the complaint is deemed to be frivolous, sham, or without basis in fact or law.

3. What action has been taken and a report on whether the original complainant was satisfied with the final disposition.

4. Any recommendation regarding needed changes in law or procedure which in the opinion of the reporting agency or office will improve consumer protection in the area involved.

(7)(a) If the office or agency receiving a complaint fails to file a report as contemplated in this section, that failure shall be construed as a denial by the receiving office or agency that it has jurisdiction of the subject matter contained in the complaint.

(b) If an office or agency receiving a complaint determines that the matter presents a prima facie case for criminal prosecution or if the complaint cannot be settled at the administrative level, the complaint together with all supporting evidence shall be transmitted to the Department of Legal Affairs or other appropriate enforcement agency with a recommendation for civil or criminal action warranted by the evidence.

(8) The records of the Division of Consumer Services are public records. However, customer lists, customer names, and trade secrets are confidential and exempt from the provisions of s. 119.07(1). Disclosure necessary to enforcement procedures shall not be construed as violative of this prohibition.

(9) It shall be the duty of the Division of Consumer Services to maintain records and compile summaries and analyses of consumer complaints and their eventual disposition, which data may serve as a basis for recommendations to the Legislature and to state regulatory agencies.

(10) If the division by its own inquiry, or as a result of complaints, has reason to believe that a violation of the

laws of the state relating to consumer protection has occurred or is occurring, it may conduct an investigation, subpoena witnesses and evidence, and administer oaths and affirmations. If, as a result of the investigation, the division has reason to believe a violation of chapter 501, other than a violation of ss. 501.91-501.923, has occurred, the division with the coordination of the Department of Legal Affairs and any state attorney, if the violation has occurred or is occurring within his judicial circuit, shall have the authority to bring an action in accordance with the provisions of chapter 501.

(11) If the division by its own inquiry, or as a result of complaints, has reason to believe that a violation of the laws of the state relating to consumer protection has occurred or is occurring, that the interests of the consumers of this state have been damaged or are being damaged, or that the public health, safety, or welfare is endangered or is likely to be endangered by any consumer product or service, the division may commence legal proceedings in circuit court to enjoin the act or practices or the sale of the product or service and may seek appropriate relief on behalf of the consumers. Upon application by the division, a hearing shall be held within 3 days after the commencement of the proceedings.

**History.**—s. 1, ch. 67-342; ss. 11, 14, 35, ch. 69-106; s. 2, ch. 73-124; s. 7, ch. 77-108; ss. 1, 2, ch. 78-16; s. 7, ch. 78-179; s. 1, ch. 79-37; s. 2, ch. 81-55; s. 3, ch. 89-4; s. 3, ch. 90-323; s. 1, ch. 91-114; s. 1, ch. 92-52; s. 40, ch. 92-291; s. 33, ch. 93-169; s. 349, ch. 96-406.

**Note.**—Former s. 570.283.

### **570.903 Direct-support organization.—**

(1) When the Legislature authorizes the establishment of a direct-support organization to provide assistance for the museums and other programs of the department, in addition to any specific provisions elsewhere stated, the following provisions shall govern the creation, use, powers, and duties of the direct-support organization.

(a) The department shall enter into a memorandum or letter of agreement with the direct-support organization, which shall specify the approval of the department, the powers and duties of the direct-support organization, and rules with which the direct-support organization shall comply.

(b) The department may permit, without charge, appropriate use of property, facilities, and personnel of the department by a direct-support organization, subject to the provisions of ss. 570.902 and 570.903. The use shall be directly in keeping with the approved purposes of the direct-support organization and shall not be made at times or places that would unreasonably interfere with opportunities for the general public to use department facilities for established purposes.

(c) The department shall prescribe by contract or by rule conditions with which a direct-support organization shall comply in order to use property, facilities, or personnel of the department or museum. Such rules shall provide for budget and audit review and oversight by the department.

(d) The department shall not permit the use of property, facilities, or personnel of the museum, department, or designated program by a direct-support organization which does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(2)(a) The direct-support organization shall be empowered to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the museum or designated program.

(b) Notwithstanding the provisions of s. 287.057, the direct-support organization may enter into contracts or agreements with or without competitive bidding for the restoration of objects, historical buildings, and other historical materials or for the purchase of objects, historical buildings, and other historical materials which are to be added to the collections of the museum, or benefit the designated program. However, before the direct-support organization may enter into a contract or agreement without competitive bidding, the direct-support organization shall file a certification of conditions and circumstances with the internal auditor of the department justifying each contract or agreement.

(c) Notwithstanding the provisions of s. 287.025(1)(e), the direct-support organization may enter into contracts to insure property of the museum or designated programs and may insure objects or collections on loan from others in satisfying security terms of the lender.

(3)(a) The direct-support organization shall make provisions for an annual audit of its financial accounts to be conducted by an independent certified public accountant in accordance with generally accepted accounting principles; provided that a direct-support organization having less than \$25,000 in total assets may be audited by the department. The annual audit report shall be submitted to the Auditor General and to the department for review within 2 months after the end of the direct-support organization's fiscal year.

(b) If the direct-support organization fails to submit the audit report at the appropriate time, the Auditor General may, pursuant to his own authority, conduct the audit, or the Auditor General shall conduct the audit at the direction of the Joint Legislative Auditing Committee, or the department shall engage an independent certified public accountant to conduct the audit. The direct-support organization shall pay for the entire costs of the audit.

(c) The Auditor General and the department shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the direct-support organization.

(4) Neither a designated program or a museum, nor a nonprofit corporation trustee or employee may:

(a) Receive a commission, fee, or financial benefit in connection with the sale or exchange of historical objects or properties to the direct-support organization, the museum, or the designated program; or

(b) Be a business associate of any individual, firm, or organization involved in the sale or exchange of property to the direct-support organization, the museum, or the designated program.

(5) All moneys received by the direct-support organization shall be deposited into an account of the direct-

support organization and shall be used by the organization in a manner consistent with the goals of the museum or designated program.

(6) The identity of a donor or prospective donor who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(7) The Commissioner of Agriculture, or the commissioner's designee, may serve on the board of trustees and the executive committee of any direct-support organization established to benefit the museum or any designated program.

(8) The department shall establish by rule archival procedures relating to museum artifacts and records. The rules shall provide procedures which protect the museum's artifacts and records equivalent to those procedures which have been established by the Department of State under chapters 257 and 267.

**History.**—s. 13, ch. 92-151; s. 37, ch. 93-169; s. 1, ch. 95-126; s. 350, ch. 96-406.

**570.953 Agriculture Center and Horse Park Authority; donor identity; records; confidentiality.**—The identity of a donor to the Florida Agriculture Center and Horse Park Authority, if so requested by the donor in writing, is confidential and exempt from s. 24(a), Art. I of the State Constitution and the provisions of s. 119.07(1). All other records of the authority are public records for the purposes of chapter 119. This exemption is necessary to protect the privacy of the donor and to encourage donors to make donations without being subjected to requests for moneys from other persons.

**History.**—s. 1, ch. 94-283; s. 351, ch. 96-406.

(2) Information that, if disclosed, would reveal a trade secret, as defined in s. 812.081, of any person subject to a marketing order is confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except to an attorney who provides legal advice to the division about enforcing a market order or by court order. A person who receives confidential information under this subsection shall maintain the confidentiality of that information.

(3) The department or its duly authorized or designated representative or representatives may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of books, records, or documents relevant and material to the subject matter of the hearings.

(4) No person shall be excused from attending and testifying or from producing documentary evidence before the department, or its duly authorized or designated representative or representatives, in obedience to the subpoena of the department on the ground or 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 natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be so required to testify, or to produce evidence, documentary or otherwise, before the department in obedience to a subpoena issued, provided no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

**History.**—ss. 23, 26, ch. 87-171; s. 4, ch. 91-429; s. 5, ch. 92-4; s. 352, ch. 96-406.

## CHAPTER 573

### MARKETING OF AGRICULTURAL COMMODITIES

- 573.105 Petition of producers.  
573.123 Maintenance and production of records.

**573.105 Petition of producers.**—Upon the application or petition of 10 percent of the affected producers who state they have reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of ss. 573.101-573.124, the department may give due notice of, and an opportunity for, a public hearing upon a proposed marketing order.

**History.**—ss. 5, 26, ch. 87-171; s. 4, ch. 91-429; s. 7, ch. 96-231.

### 573.123 Maintenance and production of records.

(1) The department may require any and all persons directly affected by and subject to the provisions of any marketing order to maintain books and records reflecting their operations under the marketing order, to furnish to the department or its duly authorized or designated representative or representatives any information as may be from time to time requested by them relating to operations under the marketing order, and to permit the inspection by the department or its duly authorized or designated representative or representatives of such portions of the books and records as relate to operations under the marketing order.

## CHAPTER 575

### CERTIFICATION SEED LAW

- 575.01 Definitions.  
575.02 Certification of seed, seedlings, vegetative propagating materials, and plants.  
575.03 Fees for certification.  
575.04 Unlawful labeling.  
575.05 Rules.  
575.06 Employees.  
575.07 Penalties; administrative fine.  
575.09 Short title.  
575.10 Purpose.

**575.01 Definitions.**—[Repealed by s. 3, ch. 96-231, and s. 10, ch. 96-407.]

**575.02 Certification of seed, seedlings, vegetative propagating materials, and plants.**—[Repealed by s. 3, ch. 96-231, and s. 10, ch. 96-407.]

**575.03 Fees for certification.**—[Repealed by s. 3, ch. 96-231, and s. 10, ch. 96-407.]

**575.04 Unlawful labeling.**—[Repealed by s. 3, ch. 96-231, and s. 10, ch. 96-407.]

**575.05 Rules.**—[Repealed by s. 3, ch. 96-231, and s. 10, ch. 96-407.]