

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 18, 1998 Revised: _____

Subject: Surcharge on the Sale of Alcoholic Beverages for Consumption on the Premises

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Givens</u>	<u>Austin</u>	<u>CM</u>	<u>Favorable</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill requires that the Office of Tourism, Trade, and Economic Development certify to the Legislature the amount of taxes and the economic benefits generated by the restaurant industry from employing participants in the WAGES program and add that amount to the total amount of certain beverage taxes and penalties paid during the 1998 calendar year. The bill also provides that if the total amount exceeds \$535 million, the surcharge on the sale of alcoholic beverages for consumption on the premises is repealed effective July 1, 1999.

II. Present Situation:

Section 561.501, F.S., provides for the surcharge on the sale of alcoholic beverages for consumption on the premises and for penalties for violations thereof. Notwithstanding any other provision of the state Beverage Law, the following surcharges are imposed: ten cents is imposed upon each ounce of liquor and each four ounces of wine; six cents is imposed on each 12 ounces of cider; and four cents is imposed on each 12 ounces of beer sold at retail for consumption on premises licensed by the Division of Alcoholic Beverages and Tobacco (division) of the Department of Business and Professional Regulation as an alcoholic beverage vendor.

Section 561.54 F.S., provides that certain deliveries of beverages are prohibited. It is against the law for common or permit carriers, operators of privately owned cars, trucks, buses, or other conveyances or out of state manufacturers or suppliers to make delivery from outside the state of any alcoholic beverages to any person, association of persons, or corporations within the state. The exception to this is the delivery to qualified manufacturers, distributors, and exporters of such beverages so delivered and to qualified bonded warehouses in this state. Any licensee injured by a violation of this section may seek to recover all moneys obtained by common carriers or permit carriers; obtained by operators of privately owned cars, trucks, buses, or other conveyances; or

obtained by out of state manufacturers or suppliers as a result of the delivery of alcoholic beverages, is a violation of this section and is entitled to seek relief. In assessing damages, the court is to fine the defendant three times the amount of the delivery charges that have been proved or the fair market value of merchandise unlawfully brought into the state. Payment or satisfaction of any judgment under this section, other than for costs and attorney's fees, is made in its entirety to the state. In any successful action under this section, the court is to award the plaintiff costs and reasonable attorney's fees.

Section 563.05, F.S., provides for excise taxes on malt beverages. All malt beverages containing 0.5 percent or more of alcohol by volume is taxed 48 cents per gallon upon all such beverages in bulk or in kegs or barrels. The tax is to be paid by all manufacturers, distributors, and vendors of such beverages. When such beverages are sold in containers of less than one gallon, the tax will be six cents on each pint in the container. However, excise taxes are not required to be paid when such beverages are sold to post exchanges, ship service stores, and base exchanges located in military, naval, or air force reservations within Florida.

Section 564.06, F.S., provides for excise taxes on wine and beverages. All beverages including wines, except natural sparkling wines, cider and malt beverages, containing 0.5 percent or more alcohol by volume and less than 17.259 percent alcohol by volume shall be taxed at the rate of \$2.25 per gallon. All wines, except natural sparkling wines, containing 17.259 percent or more alcohol by volume shall be taxed at the rate of \$3.00 per gallon. All natural sparkling wines shall be taxed at the rate of \$3.50 per gallon. All cider, is defined as being made from the normal alcoholic fermentation of the juice of sound, ripe apples, including, but not limited to, flavored, sparkling, or carbonated cider, and cider made from condensed apple must, that contain no less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume is taxed at the rate of 89 cents per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of ch. 564, F.S., relating to wine. All wine coolers, which are defined as a combination of wines containing 0.5 percent or more alcohol by volume, carbonated water, and flavors or fruit juices and preservatives, and which contain one to six percent alcohol content by volume is taxed at the rate of \$2.25 per gallon. The rates at which the tax is applied as described in this section are paid by all manufacturers and distributors.

Section 565.12, F.S., provides for excise taxes on liquors and beverages. All beverages containing 17.259 percent or more of alcohol by volume and not more than 55.780 percent of alcohol by volume, except wines, is taxed at the rate of \$6.50 per gallon. All beverages containing less than 17.259 percent of alcohol by volume is taxed at the rate provided in ch. 564, F.S., relating to wine. All beverages containing more than 55.780 percent of alcohol by volume is taxed at the rate of \$9.53 per gallon. The rates at which the tax is applied as described in this section is paid by all manufacturers and distributors. The taxes required by this section do not apply to any alcoholic beverages sold to a post exchange, ship service store, or base exchange located in a military, naval, or air force reservation within this state.

Section 561.121(4), F.S., requires that 9.8 percent of the funds collected from the alcoholic beverage surcharge be credited to the Children and Adolescents Substance Abuse Trust Fund, which is directed at reducing and eliminating substance abuse problems among children and adolescents. The remainder of the collections from the surcharge shall be credited to the General Revenue Fund. In fiscal year 1998-99, a total of \$109.3 million is expected to be collected from the alcoholic beverage surcharge.

III. Effect of Proposed Changes:

By March 1, 1999, the Office of Tourism, Trade, and Economic Development (OTTED) shall certify to the Legislature the amount of taxes and the dollar value of economic benefits generated by the restaurant industry from the employment of WAGES participants during 1998. The total amount of taxes and the dollar value of economic benefits that are reported by OTTED to the Legislature shall be added to the amount of taxes paid during 1998 under ss. 563.05, 564.06, and 565.12, F.S., and payments made under s. 561.54, F.S., as described in the present situation of this analysis. If the total amount is greater than \$535 million, effective July 1, 1999, s. 561.501, F.S., as described in the present situation of this analysis, is repealed.

This bill provides that it shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The state would, most likely, as of fiscal year 1999-2000 no longer receive the on-premise beverage consumption surcharge estimated to be \$109,300,000 in fiscal year 1998-99. This determination by staff is based on the following:

The bill eliminates the surcharge if the excise tax on beer, wine, and spirits, combined with the proceeds of the enforcement mechanisms in s. 561.54, F.S., and the

determination by OTTED of the tax and economic benefits by the employment of WAGES participants in the restaurant industry in calendar year 1998 exceed \$535 million; and

While not calculated on a calendar year basis, it is expected that the excise tax on beer, wine, and spirits in fiscal year 1998-99, will result in approximately \$464 million. A study commissioned for the restaurant industry indicated that employment of 1,000 WAGES participants would result in a benefit, tax and non-tax, of \$82.42 million in 1998. These numbers exceed the target number without any collection revenues.

B. Private Sector Impact:

The bill would reduce administrative costs incurred by licensed retail vendors, manufacturers and distributors by reducing the reporting, collecting and accounting requirements imposed by s. 561.501, F.S. Elimination of the surcharge may also reduce the price of alcoholic beverages sold at retail.

C. Government Sector Impact:

Under the provisions of the bill, OTTED is required to certify to the Legislature the amount of taxes and the dollar value of economic benefits generated by the restaurant industry from the employment of participants in the WAGES program. It is unclear at this time whether OTTED can accurately measure the dollar value of economic benefits generated by the restaurant industry from the employment of WAGES participants due to the subjectiveness of gathering the data. OTTED reports that it would require additional staff to comply with the provisions of the bill.

The Department of Business and Professional Regulation has a budget of approximately \$2.4 million and 58 FTE's (last years data) to administer and enforce the surcharge.

The Children and Adolescents Substance Abuse Trust Fund receives nine and eight-tenths percent of the revenues generated by the surcharge on the sale of alcoholic beverages for consumption on premises. According to the Department of Children and Family Services, the trust fund supports \$9.5 million in the budget for programs that serve children and adolescents. The department cautions that eliminating the funding would also result in the loss of an additional \$9.5 million in Substance Abuse Block Grant funding for failing to comply with the federal maintenance-of-effort requirement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
