STORAGE NAME: h3181.rs
DATE: January 7, 1998

HOUSE OF REPRESENTATIVES
COMMITTEE ON
REGULATED SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 3181

RELATING TO: Alcoholic beverage surcharge

SPONSOR(S): Representative Prewitt and Others

COMPANION BILL(S): none

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) REGULATED SERVICES
(2) GOVERNMENTAL OPERATIONS
(3) FINANCE AND TAXATION
(4) GENERAL GOVERNMENT APPROPRIATIONS
(5)

I. SUMMARY:

This bill exempts certain alcoholic beverage licensees, which are exempt from federal income taxation, from collecting and remitting the on-premise alcoholic beverage surcharge.

This bill is estimated to have a negative fiscal impact of approximately $6 million annually.

This bill would take effect July 1, 1998.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The alcoholic beverage surcharge, sometimes referred to as a “pouring fee” or “by-the-drink” tax, was passed in 1990. Chapter 90-132, Laws of Florida, imposed a surcharge of ten cents on each one ounce of liquor or four ounces of wine, and four cents on each 12 ounces of beer sold at retail for consumption on a vendor’s licensed premises. Chapter 97-213, Laws of Florida, reduced the surcharge rate on alcoholic cider, which had previously been taxed at the wine rate of ten cents per four ounce serving, to six cents per 12 ounce serving.

Retail vendors are required to remit the alcoholic beverage surcharge monthly and may pay the surcharge based on their actual on-premise sales during the previous month or up-front, based on the amount of purchases made from wholesalers. Rather than prepay the surcharge on beverages not yet sold, many vendors opt to pay the surcharge based on their actual sales. The sales method of calculations and remittance, however, involves a more cumbersome record keeping procedure which often results in vendor miscalculations. Vendors are allowed to retain 1% of the monthly surcharge owed to the state to cover their cost of maintaining appropriate records and remitting the tax in a timely manner.

Section 561.121, Florida Statutes, requires surcharge revenue to be deposited into the General Revenue Fund, except that nine and eight-tenths percent of the surcharge is deposited in the Children and Adolescents Substance Abuse Trust Fund (CASA). The CASA Trust Fund collections are specified to be used to fund programs directed at reducing and eliminating substance abuse problems among children and adolescents.

Chapter 97-213, Laws of Florida, also provided for the prospective repeal of the surcharge effective July 1, 1999, conditioned upon the collection of sufficient revenue to offset the repeal. In order that the surcharge repeal does not adversely affect Department of Children and Family Services’ programs funded from surcharge deposits into the CASA Trust Fund, this law appropriates, contingent upon repeal of the surcharge, $10 million annually from excise tax collections to CASA.

The surcharge is expected to generate approximately $106 million for FY 1997/98.

B. EFFECT OF PROPOSED CHANGES:

This bill exempts those alcoholic beverage licensees which are exempt from federal income taxation pursuant to 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19) from collecting and remitting the on-premise surcharge. The bill requires these licensees to have a current determination letter from the Internal Revenue Service.

These exemptions include, but are not limited to: corporations which are organized and operated exclusively for religious, charitable, scientific or educational purposes; civic leagues or non-profit organizations created for the promotion of social welfare; clubs organized for pleasure, recreation and other nonprofitable purposes; fraternal beneficiary societies, orders or associations; domestic fraternal societies, orders or associations, operating under a lodge system; and posts or organizations of past or present members of the Armed Forces.

Many such organizations operate in Florida under a “club” license, however, it is also possible that some operate under a “quota” or other type alcoholic beverage license and the Division of Alcoholic Beverages and Tobacco does not maintain computerized records in such a manner as will allow licenses to be sorted according to their Internal Revenue Code tax status. However, preliminary estimates from the division indicate that the state should collect $5,920,000 from approximately 1,000 licensees which fall within those categories for FY 1996-97. That figure is expected to increase by $100,000 each year thereafter.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

   a. Does the bill increase anyone's taxes?

      N/A

   b. Does the bill require or authorize an increase in any fees?

      N/A

   c. Does the bill reduce total taxes, both rates and revenues?

      The bill does not reduce the surcharge tax rate, but instead creates tax exemptions, thereby reducing total revenues to the state.

   d. Does the bill reduce total fees, both rates and revenues?

      N/A

   e. Does the bill authorize any fee or tax increase by any local government?

      N/A

3. Personal Responsibility:

   a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

      N/A

   b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

      N/A

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      N/A

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 561.501, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 561.501, Florida Statutes, to exempt certain alcoholic beverage licensees which are exempt from federal income taxation from the alcoholic beverage surcharge. Requires the licensee to have a current determination letter from the IRS.

Section 2. Provides that the act would take effect July 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Division of Alcoholic Beverages and Tobacco (DABT) of the Department of Business and Professional Regulation will incur the necessary expense of conducting a final audit of licensees which will hereinafter be exempt from the surcharge. The DABT will also incur the expense necessary to notify alcoholic beverage licensees of these exemptions, modify forms, computer programs, etc., to reflect these exemptions. These costs are indeterminate at this time.

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

Alcoholic beverage surcharge collections are deposited into the General Revenue Trust Fund, except that nine and eight-tenths of all surcharge collections are deposited into the Children and Adolescents Substance Abuse Trust Fund (CASA). Preliminary estimates from the Division of Alcoholic Beverages and Tobacco indicate that the exemptions provided by this legislation would reduce surcharge collections by approximately $6,020,000 for FY 1998-99 and would decrease deposits to the two trust funds accordingly. That figure is estimated to increase by $100,000 annually.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   N/A

2. Recurring Effects:

   N/A

3. Long Run Effects Other Than Normal Growth:

   N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   N/A

2. Direct Private Sector Benefits:

   Alcoholic beverage licensees which are exempt from federal income tax pursuant to one of the enumerated codes will no longer be required to collect and remit the alcoholic beverage surcharge, thereby eliminating the costs associated with that collection.

   Whether these exemptions result in decreased costs to consumers in the form of reduced drink prices is unknown.

3. Effects on Competition, Private Enterprise and Employment Markets:

   Alcoholic beverage licensees who must continue to pay the surcharge may argue that this bill places the tax exempt licensees at an unfair competitive advantage.

D. FISCAL COMMENTS:

See Total Revenues and Expenditures.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

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