STORAGE NAME: h0533s1a.gg
DATE: April 18, 1997

HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 533

RELATING TO: Alcoholic beverage surcharge

SPONSOR(S): Committee on Regulated Services and Representative Gay

STATUTE(S) AFFECTED: ss. 561.501, 561.025 and 561.121

COMPANION BILL(S): SB 336

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) REGULATED SERVICES YEAS 11 NAYS 0
(2) FINANCE AND TAXATION YEAS 10 NAYS 0
(3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
(4)
(5)

I. <u>SUMMARY</u>:

CS/HB 533 repeals the alcoholic beverage surcharge imposed by Chapter 90-132, Laws of Florida on July 1, 1999. The repeal is contingent upon the generation of additional revenue, as a result of increased efforts to prevent unlawful direct shipments of alcoholic beverages into the state, which is sufficient to offset the lost surcharge revenue.

The estimated revenue generated from the alcoholic beverage surcharge tax for FY 1997-98 is $108.4 million. For FY 1998-99 the estimated revenues is $110.6 million.

The bill contains an effective date of January 1, 1998.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida's alcoholic beverage law consists of chapter 561 relating to administration; chapter 562 relating to enforcement; chapters 563, 564 and 565 relating to beer, wine and liquor respectively; and chapters 567 and 568 relating to wet and dry county elections. Section 561.02, F.S., authorizes the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to carry out the provisions of the Beverage Law.

The Florida Beverage Law requires a person to be licensed prior to engaging in the business of manufacturing, bottling, selling, or in any way dealing in the commerce of alcoholic beverages. The law generally requires all alcoholic beverages to move through three separate regulated tiers (manufacturer, wholesaler, retailer) before reaching the ultimate consumer.

State excise taxes are paid on alcoholic beverages at the wholesale level and account for approximately $450 million annually in tax revenue for the state. The state sales tax is collected on the retail sale of beverages and, like the state excise tax, generates millions of dollars in tax revenue for the state annually.

Direct Shipments of Alcoholic Beverages

In recent years there has been an expansion of solicitations and advertisements for alcoholic beverage sales via magazines, specialty catalogues, direct mailings and, more recently, the Internet. Sales of this nature bypass the state's regulatory and tax collection procedures and are, therefore, violative of Florida law.

Alcoholic Beverage Surcharge

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.

Retail vendors are required to remit the alcoholic beverage surcharge monthly and may choose to 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 pay the surcharge up-front 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, F.S., 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.

The alcoholic beverage surcharge will generate approximately $108.4 million for FY 1997-98.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 533 repeals the alcoholic beverage surcharge created in s. 561.501, Florida Statutes, effective July 1, 1999. The bill requires the Department of Business and Professional Regulation and the Department of Revenue to report to the Legislature by January 1, 1999, the amount of revenue generated as a result of increased enforcement efforts to deter unlawful direct shipping. The bill does not otherwise address the issue of direct shipping. The repeal is contingent upon sufficient revenues being generated to replace the revenue collected annually from the alcoholic beverage surcharge.

The bill also deletes statutory references to the surcharge in ss. 561.025 and 561.121, Florida Statutes, contingent upon the repeal of s. 561.501.

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?

No. The bill repeals the alcoholic beverage surcharge which is assessed on all alcoholic beverages sold for on-premise consumption.

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

No.

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

Yes. The bill repeals the surcharge assessed on all alcoholic beverages sold for on-premise consumption and reduces state revenue accordingly.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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?

      No.

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?

      No.

   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. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. <u>FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. <u>Non-recurring Effects</u>:

None.

2. <u>Recurring Effects</u>:

The alcoholic beverage surcharge repeal contained in this bill would result in a reduction in state revenue collections of approximately $113 million annually in FY 1999-2000 from the alcoholic beverage surcharge. Of that amount, nine and eight-tenths percent is designated for remittance to the Children and Adolescents Substance Abuse Trust Fund and the remainder to the General Revenue Trust Fund. The repeal, however, is contingent upon the collection of increased revenues in an amount sufficient to replace the surcharge revenue. If the revenues are replaced by the strict enforcement of illegal shipment into the state, the net effect would result in an approximate $11.07 million increase in general revenue and a corresponding decrease in the Children and Adolescents Substance Abuse Fund.

The surcharge repeal would result in a reduction of 58 FTE positions in the department and a corresponding $2.4 million in salaries, benefits and expenses for those positions.

3. <u>Long Run Effects Other Than Normal Growth</u>:

Indeterminate.

4. Total Revenues and Expenditures:

   The alcoholic beverage surcharge should generate an estimated $108.4 million in FY 1997-98 and $110.6 million in FY 1998-99. If the law is repealed revenues would be replaced but the apportionment would result in an approximate $11.07 million increase in General Revenue and a corresponding $11.07 million decrease in the Children and Adolescents Substance Abuse Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   Retail vendors of alcoholic beverages will see a reduction in costs associated with maintaining the necessary records for calculating and remitting the surcharge to the state.

   To the extent any cost savings is passed on to the ultimate consumer as a result of this repeal, the public could experience a reduction in the cost of alcoholic beverages purchased in restaurants and bars.

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

   Indeterminate.

D. FISCAL COMMENTS:

The amount of state excise and sales tax revenue lost as a result of the direct sale of alcoholic beverages is unknown. Various organizations have made educated estimates ranging in the low millions to more than $100 million annually. Due to jurisdictional impediments to enforcement, it is unknown how much additional revenue could be expected to result from increased efforts by the state to prevent unlawful direct sales.

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:

As originally filed, HB 533 provided for a repeal of the alcoholic beverage surcharge effective January 1, 1998. The Committee Substitute requires the repeal to be contingent upon the collection of additional revenue sufficient to offset the surcharge collections. The CS/HB 533 provides that the repeal will not take place until the Legislature receives verification from the Department of Business and Professional Regulation and the Department of Revenue that the goal has been attained.

On April 18, 1997 the General Government Appropriations Committee adopted one amendment. This amendment holds harmless the Children and Adolescents Substance Abuse Trust Fund upon repeal of the surcharge.

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:	Legislative Research Director:
Janet Clark Morris	Paul Liepshutz

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:	Legislative Research Director:
George T. Levesque	Keith G. Baker, Ph.D.

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:	Legislative Research Director:
Juliette Noble	Cynthia P. Kelly