STORAGE NAME: h1955.ft
DATE: March 18, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCE AND TAXATION
ANALYSIS

BILL #: HB 1955 (PCB FT 99-10)

RELATING TO: Alcoholic Beverage Surcharge

SPONSOR(S): Committee on Finance & Taxation and Representatives Albright, Bitner & others

COMPANION BILL(S): Similar to HB 53 and SB 102

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) FINANCE AND TAXATION YEAS 16 NAYS 0
(2)
(3)
(4)
(5)

I. SUMMARY:

The bill would reduce the surcharge on alcoholic beverages sold for consumption on a retailer's licensed premises by 33 percent.

The bill would reduce state revenues by approximately $30.5 million in FY 99-00 and $37.7 million in FY 00-01. The portion of the surcharge that is transferred to the Children and Adolescents Substance Abuse Trust Fund would increase to 13.6%.

The bill provides an effective date of September 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

An alcoholic beverage surcharge is imposed on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises [s. 561.501]. The surcharge is ten cents on each one ounce of liquor or four ounces of wine, six cents on each 12 ounces of cider and four cents on each 12 ounces of beer. Numerous simplifications have been made to the surcharge collection process during the past several years; nevertheless, the surcharge is generally considered to be a difficult tax to report and to audit.

Retailers 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 alcoholic beverage purchases they made from licensed wholesalers. The Division of Alcoholic Beverages and Tobacco [DABT] reports that approximately 87% of retailers utilize the purchase method to calculate the surcharge. The sales method of calculations and remittance involves a more cumbersome record keeping procedure which often results in retailer miscalculations. For FY 1997-1998, the retail surcharge generated $107 million in tax due the state: $29 million from malt beverages; $21 million from wines; $56 million from spirits; and $1,800 from cider.

Retailers 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.

Until recently, efforts to repeal the surcharge were unsuccessful due to the difficulty in reaching agreement on a suitable revenue replacement source. Legislation was enacted during the 1997 Session (Chapter 97-213, L.O.F.). The repeal passed as part of a bill dealing with the unlawful direct shipping of alcoholic beverages. The nexus between the two issues was the belief that substantial tax dollars are lost due to unlawful direct shipping and, if recouped, the increased tax revenue [excise & sales taxes] might be sufficient to repeal the surcharge. The DABT is required to report to the Legislature by March 1, 1999, the total amount of revenue collected pursuant to this law during calendar year 1998. Preliminary indications, however, do not demonstrate significant increased excise tax revenue collections which can be attributed to the direct shipping legislation.

Another effort at repeal resulted in legislation during the 1998 Session, which tied repeal of the surcharge to the employment of WAGES participants by the food and beverage industry. That legislation set forth a formula by which the economic benefit of employing a WAGES participant could be calculated. This legislation passed, but was subsequently vetoed by the Governor. The concern was that it did not set forth an adequate means of recouping the lost revenue.

Section 561.121, Florida Statutes, requires nine and eight-tenths of the surcharge to be transferred to the Children and Adolescents Substance Abuse Trust Fund [CASA TF] for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents. In FY 1997-1998, $10,042,204 was transferred from surcharge collections to the CASA TF.

Section 3 of Chapter 97-213, Laws of Florida, contains an amendment to s. 561.121, Florida Statutes, which specifies that in the event the surcharge is repealed, $10 million annually will be transferred from excise tax collections to the CASA TF.

B. EFFECT OF PROPOSED CHANGES:

PCB FT 99-06 would reduce the surcharge on alcoholic beverages sold for consumption on a retailer's licensed premises by 33 percent. The surcharge would be reduced to 6.67 cents on each one ounce of liquor or four ounces of wine, 4 cents on each 12 ounces of cider, and 2.67 cents on each 12 ounces of beer.

The bill would increase the portion of funds transferred the CASA TF from 9.8 percent to 13.6 percent.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

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

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

No.

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

No.

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

No.

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. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

No. It reduces the taxes paid by retailers on 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 reduces the tax rate on alcoholic beverages sold for on-premise consumption. See Fiscal Comments section.

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?

      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:

561.501 & 561.121, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 561.501, Florida Statutes, reducing by one-third the surcharge collected on the sale of alcoholic beverages consumed in a retailer's licensed establishment.

Section 2. Amends s. 561.121, Florida Statutes, increasing the share distributed to the Children and Adolescents Substance Abuse Trust Fund to 13.6%.

Section 3. Providing an effective date of September 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

	FY 99-00	FY 00-01
General Revenue	($30.5)	($37.7M)

The CASA TF will be held harmless due to the increased distribution rate. This amount would come from the beverage surcharge collections prior to deposit into the General Revenue Fund.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

	FY 99-00	FY 00-01
General Revenue	($30.5M)	($37.7M)

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:

   Retailers will be responsible for any costs associated with administering the new tax rates.

2. Direct Private Sector Benefits:

   Retail establishments will be able to retain the $30.5 million as a result of the reduction in taxing rates or may pass on this savings to consumers

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

   Any savings generated by the reduced rate may be reinvested for the purpose of expanding operations. This could lead to employment growth in retail establishments receiving these benefits.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This is not a mandate.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This is not a reduction in revenue raising authority of counties or municipalities.

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

This is not reduction of state taxes shared with counties and municipalities.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FINANCE AND TAXATION:

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