

STORAGE NAME: h0045.ag.doc

DATE: January 18, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 45

RELATING TO: Alcoholic Beverage Surcharge

SPONSOR(S): Representative(s) Bense

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE & CONSUMER AFFAIRS
 - (2) FISCAL POLICY & RESOURCES
 - (3) FISCAL RESPONSIBILITY COUNCIL
 - (4)
 - (5)
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I. SUMMARY:

This bill provides that the alcoholic beverage surcharge will not be imposed effective July 1, 2001 and provides a prospective repeal of the surcharge statute on July 1, 2004. The delayed repeal provides a three-year period for the Department of Business and Professional Regulation (department) to complete final audits of surcharge licensees.

The Children and Adolescents Substance Abuse Trust Fund, which presently receives a percentage of surcharge revenue collections, will be held harmless with an annual \$10 million appropriation from excise tax collections.

Repeal of the alcoholic beverage surcharge will result in an estimated reduction in revenue collections of approximately \$40-44 million for FY 2001-2002.

The bill will take effect July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. 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, F.S.]. The surcharge is 3.34 cents on each ounce of liquor and on each 4 ounces of wine, 2 cents on each 12 ounces of cider and 1.34 cents on each 12 ounces of beer. The present surcharge is two-thirds of the initial rate after having been reduced in each of the two previous legislative sessions.

Retailers are required to remit the alcoholic beverage surcharge monthly and may pay the surcharge based on their actual on-premises sales during the previous month or up-front, based on the amount of alcoholic beverage purchases they made from licensed wholesalers. According to the Division of Alcoholic Beverages and Tobacco (DABT), over 85% of licensed retailers utilize the purchase method to calculate the surcharge. The sales method of calculations and remittance involves a more cumbersome record keeping procedure that often results in retailer miscalculations.

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. Current staffing levels at the DABT allow the nearly 21,000 licensees to be audited once every three to five years.

Section 561.121, Florida Statutes, requires 27.2% of surcharge collections be transferred to the Children and Adolescents Substance Abuse Trust Fund [CASA TF] to fund programs directed at reducing and eliminating substance abuse problems among children and adolescents. In order to hold harmless the CASA TF, the contribution rate was increased to this rate when surcharge rates were reduced in 2000. The surcharge is expected to generate \$11.3 million for the CASA TF for FY 2000-2001 and \$10.8 million for FY 2001-2002.

According to Revenue Estimating Conference projections, at its present rate the surcharge is expected to generate approximately \$44.5 million for FY 2000-2001 and \$42.8 million for FY 2001-2002.

C. EFFECT OF PROPOSED CHANGES:

This bill provides that the alcoholic beverage surcharge will no longer be imposed effective July 1, 2001. Further, the bill provides a prospective repeal of the surcharge statute, s. 561.501, on July 1, 2004. This 3-year delay in repeal of the statute maintains the agency's enforcement and audit authority in order to conduct close-out audits of the approximate 21,000 retail alcoholic beverage licensees and requires the licensees to maintain appropriate records during that time.

The CASA TF, which presently receives 27.2% of surcharge revenue collections, will be held harmless with an annual \$10 million appropriation from excise tax collections. These funds will continue to be used to fund programs directed at reducing and eliminating substance abuse problems among children and adolescents.

Passage of this legislation will result in reduced revenue collections of approximately \$40-44 million for FY 2001-2002.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 561.501, Florida Statutes, providing that the surcharge imposed by that statute will not be imposed effective July 1, 2001.

Section 2. Provides a prospective repeal of s. 561.501, Florida Statutes, effective July 1, 2004. The delayed repeal maintains the agency's enforcement and audit authority for three years in order for closeout audits to be completed.

Section 3. Amends s. 561.025, Florida Statutes, deleting a reference to s. 561.501.

Section 4. Amends subsection (1) and repeals subsection (4) of s. 561.121, Florida Statutes, to address the transfer of funds to the CASA TF.

Section 5. Provides that the act will take effect July 1, 2001, except as otherwise provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Based on current surcharge collection data, and considering the decreased rates pertaining to 2 or the 3 years within the final audit period, audit collections from closeout audits are projected to be **\$4.3 million annually**. Not taken into consideration are possible diminishing returns due to audit priority factors, less stringent audits, and future auditor position vacancies.

2. Expenditures:

Anticipated audit expenses per year for closeout audit activities are **\$2.8 million**. Based on current costs, the Bureau of Auditing spends an estimated \$5.29 per \$100.00 collected for surcharge monthly reports and audits performed. Given the same expense figures, and considering only the audit collection figures without monthly report amounts, it is estimated the closeout audits could generate a cost/benefit ratio of \$64.66 per \$100.00 collected.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Alcoholic beverage retailers will benefit to the extent they will no longer be required to collect and remit the surcharge. Statewide, that impact is estimated to be approximately \$40-44 million for FY 2001-2002. These retailers will, however, be required to maintain appropriate documentation of alcoholic beverage sales and surcharge collections until closeout audits are completed. Consumers of alcoholic beverages will benefit to the extent retailers pass on the cost savings incurred as a result of the repeal of the surcharge to the consumer.

D. FISCAL COMMENTS:

The bill includes a prospective (July 1, 2004) repeal of s. 561.501, Florida Statutes, which maintains the department's audit and enforcement capabilities. This will enable the department to conduct closeout audits of all or the majority of surcharge licensees. The DABT has a staff of 34 designated surcharge positions. Currently, approximately 2,000 audits are performed per year, with a general average collection of \$1,000 per audit. To perform all closeout audits within the 3 years designated by the legislation, the DABT indicates it will shift some auditing resources from wholesale audit to surcharge audit functions.

The bill repeals specific directives for the deposit of surcharge revenues; however, existing language in s. 561.025, Florida Statutes, that all funds collected under the "beverage law" be deposited in the state treasury to the credit of the Alcoholic Beverage and Tobacco Trust Fund, appears to provide sufficient direction for the deposit of surcharge revenue collected as a result of closeout audits or otherwise during the 3-year period between which the surcharge will no longer be imposed and the complete repeal of the statute.

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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

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C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Susan D. Reese

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