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HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FISCAL POLICY & RESOURCES
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 YEAS 7 NAYS 1
(2) FISCAL POLICY AND RESOURCES YEAS 12 NAYS 1
(3) FISCAL RESPONSIBILITY COUNCIL
(4)
(5)

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 supported by an annual $10 million appropriation from alcoholic, beverage, excise tax collections.

Repeal of the alcoholic beverage surcharge will decrease total state revenues by about -$42.8 million in FY 2001-2002 and -$43.7 million in FY 2002-2003.

The bill will take effect July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes [X]	No []	N/A []
2.	Lower Taxes	Yes [X]	No []	N/A []
3.	Individual Freedom	Yes []	No []	N/A [X]
4.	Personal Responsibility	Yes []	No []	N/A [X]
5.	Family Empowerment	Yes []	No []	N/A [X]

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, Florida Statute. 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 either remit the alcoholic beverage surcharge monthly, and pay the surcharge based on their actual on-premises sales during the previous month, or pay the surcharge upfront, 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 pay the surcharge upfront. The on-premises sales method of calculations and remittance is cumbersome and 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. Nearly 21,000 licensees are audited once every three to five years.

Section 561.121, Florida Statutes, requires that 27.2 percent of the 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. 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.

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, F. S. The three-year delay in the repeal of the statute will allow the DABT to continue enforcement and conduct close-out audits of the approximate 21,000 retail alcoholic beverage licensees. During this period the licensees will need to maintain appropriate records.

The CASA TF, which presently receives 27.2 percent of surcharge revenue collections (approximately $10 million), will be supported by an annual $10 million appropriation from alcoholic beverage excise tax collections. These appropriations will continue to fund programs that reduce and eliminate substance abuse problems among children and adolescents.

Passage of this legislation will reduce total state revenues by about -$42.8 million in FY 2001-2002 and -$43.7 million for FY 2002-2003.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 561.501, F. S., providing that the surcharge imposed by that statute will not be imposed effective July 1, 2001. Until this time, vendors will continue reporting and remitting surcharges to the state.

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

Section 3. Amends s. 561.025, F. S., deleting a reference to s. 561.501, F. S., – Removes the exception of surcharge revenue from being deposited into the Alcoholic Beverage and Tobacco Trust Fund.

Section 4. Amends subsection (1) and repeals subsection (4) of s. 561.121, F. S., to address the transfer of funds to the CASA TF – Requires that $10 million of the alcoholic beverage excise revenue be deposited into the CASA TF annually.

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

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

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues</u>:

The Revenue Impact Conference estimates, that the repeal of the alcoholic beverage surcharge will affect total, state revenues by -$42.8 million for FY 2001-2002 and -$43.7 million for FY 2002-2003.

Based on current surcharge collection data and decreasing rates, 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, future auditor position vacancies, and non-compliance on behalf of the retailers.

2. <u>Expenditures</u>:

Anticipated audit expenses for closeout audit activities are estimated to be $2.8 million per year. Based on current costs, the Bureau of Auditing spends an estimated $5.29 per $100.00 collected for surcharge monthly reports and audits. Given these 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. If the vendor chooses not to reduce the price of alcoholic beverages, that vendor would be benefited by the amount now remitted to the state.

Until closeout audits are completed, retailers will be required to maintain appropriate documentation of alcoholic beverage sales and surcharge collections. It should be noted that past reductions of the surcharge and the anticipation of a repeal, have enhanced the rate of non-compliance by licensees.

Consumers of alcoholic beverages may benefit if retailers pass on the cost savings resulting from the repeal of the surcharge to the consumer.

D. FISCAL COMMENTS:

The bill includes a prospective (July 1, 2004) repeal of s. 561.501, F. S., which corresponds 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 designated 34 staffers for this task. Approximately 2,000 audits are performed each year, with an average collection of $1,000 per audit. To perform all closeout audits within 3 years, the DABT 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, F. S., 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.

C. OTHER COMMENTS:

It is estimated that the net effect to the CASA TF will be between -$1.0 and -$1.3 million dollars over the next three years.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:	Staff Director:
Susan D. Reese	Susan D. Reese

AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

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