

STORAGE NAME: h0645a.br.doc
DATE: March 2, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS REGULATION
ANALYSIS**

BILL #: HB 645
RELATING TO: Alcoholic Beverage Surcharge
SPONSOR(S): Representative(s) Henriquez
TIED BILL(S): None

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

- (1) BUSINESS REGULATION YEAS 7 NAYS 0
 - (2) FISCAL POLICY & RESOURCES
 - (3) FISCAL POLICY COUNCIL
 - (4)
 - (5)
-

I. SUMMARY:

During the 2000 Legislative Session the alcoholic beverage surcharge rate was reduced to the present rates and exemptions were created for certain qualifying nonprofit organizations. The surcharge is assessed on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises. The surcharge is 3.34 cents on each ounce of liquor and on each four ounces of wine, 2 cents on each 12 ounces of cider and 1.34 cents on each 12 ounces of beer.

This bill adds additional nonprofit organizations [qualifying nonprofit organizations licensed which were licensed under a special act and organizations qualified as tax exempt under 501(c) (2) and (10) of the Internal Revenue Code] to the group of qualifying nonprofit organizations exempted from the imposition and collection of the surcharge during the 2000 Legislative Session.

The bill is anticipated to have a negative, but insignificant, impact on state revenue collections.

The act will take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

The Beverage Law consists of Chapter 561 relating to administration, Chapter 562 relating to enforcement, Chapters 563, 564, and 565 relating to beer, wine and spirits, respectively; and Chapters 567 and 568 relating to local option county elections. The Beverage Law requires a person to be licensed prior to engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in the commerce of alcoholic beverages and requires strict compliance with the Beverage Law.

Section 565.02(4), F.S., allows the issuance of a retail vendor license to qualifying chartered or incorporated clubs, such as veteran or fraternal organizations, golf clubs, etc., which allow the sale of all types of alcoholic beverages for on-premises consumption. Section 561.422, F. S., allows the issuance of a *temporary* alcoholic beverage retail vendor license to bona fide nonprofit civic organizations. The license is valid for up to three days and allows the sale of all types of alcoholic beverages for on-premises consumption. No organization may obtain more than three temporary licenses per calendar year.

Section 561.501, F.S., requires a surcharge to be assessed on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises. The surcharge rate is 3.34 cents on each ounce of liquor and on each four ounces of wine, 2 cents on each 12 ounces of cider and 1.34 cents on each 12 ounces of beer. Nonprofit and veterans organizations licensed under ss. 561.422 or 565.02(4), F.S., and qualified as exempt from federal income tax under s. 501(c)(3)-(8) and (19) of the Internal Revenue Code of 1986, as amended, are exempt from paying this surcharge. The surcharge is estimated to generate approximately \$44.5 million for FY 2000-01.

Retailers are required to remit the 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. The sales method of calculations and remittance involves a more cumbersome record keeping procedure that often results in retailer miscalculations. The Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation [division], reports that over 85% of licensed retailers utilize the purchase method to calculate the surcharge.

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 division allow the nearly 21,000 licensees to be audited once every three to five years.

Section 561.121, F.S., requires 27.2% of surcharge collections to 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 estimated to generate approximately \$11,300,000 for the CASA TF in FY 2000-01.

Chapter 2000-354, Laws of Florida, reduced the tax rate for the alcoholic beverage surcharge to its present rate and created the exemptions for qualifying nonprofit organizations. Qualifying 501(c) organizations exempt from the surcharge include: (3) religious, charitable, scientific, literary, or educational; (4) civic leagues, social welfare and local associations of employees; (5) labor, agricultural and horticultural; (6) business leagues, chambers of commerce and real estate boards; (7) social and recreational clubs; (8) fraternal beneficiary societies and associations; and (19) veterans organizations. This exemption does not apply to organizations licensed under a special or local act but only to those licensed under general law provisions of ss. 561.422 or 565.02(4), F.S.

C. EFFECT OF PROPOSED CHANGES:

This bill strikes a reference to ss. 561.422 and 565.02(4), F.S., and thereby extends the exemption from paying the alcoholic beverage surcharge to otherwise qualifying organizations that are licensed under a special or local act or other provisions of general law.

The exemptions created for the specified 501(c) organizations is expanded to include 501(c)(2) and (10) organizations:

- 501(c)(2) organizations include corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount, less expenses, to an organization which itself is exempt.
- 501(c)(10) organizations include domestic fraternal societies, orders or associations, operating under the lodge system.

This bill will have a negative, but insignificant, impact on state revenue collections.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 561.501, F.S., to extend the exemption from paying the alcoholic beverage surcharge to qualifying clubs that are licensed under a special or local act and to expand the types of qualifying organizations that are exempt.

Section 2. Provides that the act will take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill will have a negative, but insignificant, impact on state revenue collections.
[See D. FISCAL COMMENTS]

2. Expenditures:

The bill will have an insignificant impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Nonprofit organizations qualifying under the newly created exemptions will benefit to the extent the organization will no longer be required to collect and remit the surcharge.

D. FISCAL COMMENTS:

During consideration of surcharge legislation during the 2000 Legislative Session, the department estimated that there were approximately 800 retail vendors holding various club licenses that would, in all likelihood, be considered as qualified for exemption from the surcharge under the provisions of the bill under consideration. For purposes of that evaluation there was no delineation between the different types of not for profit organizations, e.g., whether someone qualified under 501(c)(3) versus 501(c)(19) or whether the license was issued under a special act or general law. All licenses, which appeared to be issued to nonprofit organizations, were grouped together to reach an estimate of the fiscal impact; therefore, the exemption of additional not for profit organizations from the surcharge should have little, if any, additional fiscal impact on state revenue collections.

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.

STORAGE NAME: h0645a.br.doc

DATE: March 2, 2001

PAGE: 5

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Over the years, numerous alcoholic beverage licenses have been issued pursuant to a special act/local bill. The exact number of licenses issued in this manner is not readily available from the division. Subsequent to passage of Chapter 2000-354, Laws of Florida, which created an exemption from the surcharge for specified 501(c) organizations which are licensed under two provisions of general law, the Hillsborough County Delegation became aware that there were several organizations in Hillsborough County which did not qualify for the exemption due to the fact that their licenses were issued pursuant to a local bill or special act.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Staff Director:

Janet Clark Morris

M. Paul Liepshutz