

CHAMBER ACTION

1 The Fiscal Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the taxation of alcoholic beverages;  
7 amending s. 561.121, F.S.; deleting provisions providing  
8 for certain annual distributions of funds for specified  
9 purposes; deleting provisions crediting specified taxes on  
10 alcoholic beverages to accounts funding substance abuse  
11 programs for children and adolescents; deleting a  
12 provision providing for payment and credit of alcoholic  
13 beverage surcharge funds to the General Revenue Fund to  
14 conform; terminating the Children and Adolescents  
15 Substance Abuse Trust Fund within the Department of  
16 Children and Family Services; providing for disposition of  
17 balances in and revenues of such trust fund; amending s.  
18 215.20, F.S.; conforming provisions to the repeal of the  
19 trust fund; amending s. 561.501, F.S.; deleting a  
20 provision imposing a surcharge on alcoholic beverages sold  
21 for consumption on the premises; amending s. 561.025,  
22 F.S., to conform; repealing 561.501, F.S., relating to the

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23 collection of the alcoholic beverage surcharge; providing  
24 effective dates.

25

26 Be It Enacted by the Legislature of the State of Florida:

27

28 Section 1. Subsections (1) and (4) of section 561.121,  
29 Florida Statutes, are amended to read:

30 561.121 Deposit of revenue.--

31 (1) All state funds collected pursuant to ss. 563.05,  
32 564.06, and 565.12 shall be paid into the State Treasury and  
33 disbursed in the following manner:

34 (a)~~1~~. Two percent of monthly collections of the excise  
35 taxes on alcoholic beverages established in ss. 563.05, 564.06,  
36 and 565.12 shall be deposited into the Alcoholic Beverage and  
37 Tobacco Trust Fund to meet the division's appropriation for the  
38 state fiscal year.

39 ~~2. Beginning July 1, 2004, there is annually distributed~~  
40 ~~\$15 million to the Grants and Donations Trust Fund within the~~  
41 ~~Department of Elderly Affairs, and these funds are annually~~  
42 ~~appropriated to support a contract with the Johnnie B. Byrd,~~  
43 ~~Sr., Alzheimer's Center and Research Institute at the University~~  
44 ~~of South Florida for the purposes of conducting research,~~  
45 ~~developing and operating integrated data projects, and providing~~  
46 ~~assistance to memory disorder clinics as established in s.~~  
47 ~~430.502.~~

48 ~~3. Beginning July 1, 2004, there is annually distributed~~  
49 ~~\$6 million to the Biomedical Research Trust Fund within the~~  
50 ~~Department of Health, and these funds are annually appropriated~~

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51 ~~to the James and Esther King Biomedical Research Program. From~~  
 52 ~~these funds, up to \$250,000 shall be available annually for the~~  
 53 ~~operating costs of the Florida Center for Universal Research to~~  
 54 ~~Eradicate Disease.~~

55 ~~4. Beginning July 1, 2004, there is annually distributed~~  
 56 ~~\$9 million to be paid by warrant drawn by the Chief Financial~~  
 57 ~~Officer upon the State Treasury to Florida State University for~~  
 58 ~~the School of Chiropractic Medicine. Notwithstanding the~~  
 59 ~~provisions of chapter 216, until the School of Chiropractic~~  
 60 ~~Medicine is completely staffed and fully operational, these~~  
 61 ~~funds may be used for any purpose by the university.~~

62 (b) ~~The remainder of collection shall be credited to the~~  
 63 ~~General Revenue Fund.~~

64 (4)(a) ~~State funds collected pursuant to s. 561.501 shall~~  
 65 ~~be paid into the State Treasury and credited to the General~~  
 66 ~~Revenue Fund. following accounts:~~

67 ~~1. Twenty seven and two tenths percent of the surcharge on~~  
 68 ~~the sale of alcoholic beverages for consumption on premises~~  
 69 ~~shall be transferred to the Children and Adolescents Substance~~  
 70 ~~Abuse Trust Fund, which shall remain with the Department of~~  
 71 ~~Children and Family Services for the purpose of funding programs~~  
 72 ~~directed at reducing and eliminating substance abuse problems~~  
 73 ~~among children and adolescents.~~

74 ~~2. The remainder of collections shall be credited to the~~  
 75 ~~General Revenue Fund.~~

76 (b) ~~For the 2004-2005 state fiscal year only, and~~  
 77 ~~notwithstanding the provisions of subparagraph (a)1., moneys in~~  
 78 ~~the Children and Adolescents Substance Abuse Trust Fund may also~~

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79 ~~be used for the purpose of funding programs directed at reducing~~  
 80 ~~and eliminating substance abuse problems among adults. This~~  
 81 ~~paragraph expires July 1, 2005.~~

82 Section 2. Effective July 1, 2006, subsection (4) of  
 83 section 561.121, Florida Statutes, as amended by this act, is  
 84 amended to read:

85 561.121 Deposit of revenue.--

86 ~~(4) State funds collected pursuant to s. 561.501 shall be~~  
 87 ~~paid into the State Treasury and credited to the General Revenue~~  
 88 ~~Fund.~~

89 Section 3. (1) The Children and Adolescents Substance  
 90 Abuse Trust Fund within the Department of Children and Family  
 91 Services is terminated. The current balance remaining in the  
 92 trust fund shall be transferred to the Operations and  
 93 Maintenance Trust Fund in the department.

94 (2) The Department of Children and Family Services shall  
 95 pay any outstanding debts and obligations of the terminated fund  
 96 as soon as practicable, and the Chief Financial Officer shall  
 97 close out and remove the terminated fund from the various state  
 98 accounting systems using generally accepted accounting  
 99 principles concerning warrants outstanding, assets, and  
 100 liabilities.

101 Section 4. Paragraph (e) of subsection (4) of section  
 102 215.20, Florida Statutes, is amended to read:

103 215.20 Certain income and certain trust funds to  
 104 contribute to the General Revenue Fund.--

105 (4) The income of a revenue nature deposited in the  
 106 following described trust funds, by whatever name designated, is

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107 that from which the appropriations authorized by subsection (3)  
108 shall be made:

109 (e) Within the Department of Children and Family Services:

110 1. The Administrative Trust Fund.

111 2. The Child Welfare Training Trust Fund.

112 ~~3. The Children and Adolescents Substance Abuse Trust~~  
113 ~~Fund.~~

114 3.4. The Domestic Violence Trust Fund.

115 4.5. The Grants and Donations Trust Fund.

116 5.6. The Operations and Maintenance Trust Fund.

117

118 The enumeration of the foregoing moneys or trust funds shall not  
119 prohibit the applicability thereto of s. 215.24 should the  
120 Governor determine that for the reasons mentioned in s. 215.24  
121 the money or trust funds should be exempt herefrom, as it is the  
122 purpose of this law to exempt income from its force and effect  
123 when, by the operation of this law, federal matching funds or  
124 contributions or private grants to any trust fund would be lost  
125 to the state.

126 Section 5. Section 561.501, Florida Statutes, is amended  
127 to read:

128 561.501 Surcharge on sale of alcoholic beverages for  
129 consumption on the premises; penalty.--

130 ~~(1) Notwithstanding s. 561.50 or any other provision of~~  
131 ~~the Beverage Law, a surcharge of 3.34 cents is imposed upon each~~  
132 ~~ounce of liquor and each 4 ounces of wine, a surcharge of 2~~  
133 ~~cents is imposed on each 12 ounces of cider, and a surcharge of~~  
134 ~~1.34 cents is imposed on each 12 ounces of beer sold at retail~~

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135 ~~for consumption on premises licensed by the division as an~~  
136 ~~alcoholic beverage vendor. However, the surcharges imposed under~~  
137 ~~this subsection need not be paid upon such beverages when they~~  
138 ~~are sold by an organization that is licensed by the division~~  
139 ~~under s. 561.422 or s. 565.02(4) as an alcoholic beverage vendor~~  
140 ~~and that is determined by the Internal Revenue Service to be~~  
141 ~~currently exempt from federal income tax under s. 501(c)(3),~~  
142 ~~(4), (5), (6), (7), (8), or (19) of the Internal Revenue Code of~~  
143 ~~1986, as amended.~~

144 (1)(2) The vendor shall report and remit payments to the  
145 division each month by the 15th of the month following the month  
146 in which the surcharges are imposed. For purposes of  
147 compensating the retailer for the keeping of prescribed records  
148 and the proper accounting and remitting of surcharges imposed  
149 under this section, the retailer shall be allowed to deduct from  
150 the payment due the state 1 percent of the amount of the  
151 surcharge due. Retail records shall be kept on the quantities of  
152 all liquor, wine, and beer purchased, inventories, and sales.  
153 However, a collection allowance is not allowed on any  
154 collections that are not timely remitted. If by the 20th of the  
155 month following the month in which the surcharges are imposed,  
156 reports and remittances are not made, the division shall assess  
157 a late penalty in the amount of 10 percent of the amount due per  
158 month for each 30 days, or fraction thereof, after the 20th of  
159 the month, not to exceed a total penalty of 50 percent, in the  
160 aggregate, of any unpaid surcharges. The division shall  
161 establish, by rule, the required reporting, collection, and  
162 accounting procedures. Records must be maintained for 3 years.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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163 Failure to accurately and timely remit surcharges imposed under  
164 this section is a violation of the Beverage Law.

165 (2)~~(3)~~(a) The division may compromise a taxpayer's  
166 liability for the surcharge imposed by this section upon the  
167 grounds of doubt as to liability for or collectibility of such  
168 tax. A taxpayer's liability for penalties as prescribed by this  
169 section may be settled or compromised if the division finds that  
170 the noncompliance is due to reasonable cause and not to willful  
171 negligence, willful neglect, or fraud. The division shall  
172 maintain records of all compromises, and the records must state  
173 the basis for the compromise.

174 (b) The division may enter into agreements for scheduling  
175 payments of taxes, interest, and penalties prescribed in this  
176 section.

177 (c) The division shall establish by rule guidelines and  
178 procedures for administering this section.

179 (3)~~(4)~~ If any vendor fails to remit the surcharge, or any  
180 portion thereof, by the 20th of the month following the month in  
181 which the surcharges are imposed, there shall be added to the  
182 amount due interest at the rate of 1 percent per month of the  
183 amount due from the date due until paid. Interest on the  
184 delinquent tax shall be calculated beginning on the 21st day of  
185 the month following the month for which the surcharge is due.

186 (4)~~(5)~~ All penalties and interest imposed by this section  
187 are payable to and collectible by the division in the same  
188 manner as if they were a part of the tax imposed. The division  
189 may settle or compromise any such interest or penalty under  
190 paragraph (2)~~(3)~~(a).

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191           Section 6. Effective July 1, 2006, section 561.501,  
192 Florida Statutes, as amended by this act, is repealed.

193           Section 7. Effective July 1, 2006, section 561.025,  
194 Florida Statutes, is amended to read:

195           561.025 Alcoholic Beverage and Tobacco Trust Fund.--There  
196 is created within the State Treasury the Alcoholic Beverage and  
197 Tobacco Trust Fund. All funds collected by the division under  
198 ss. 210.15, 210.40, or under s. 569.003 and the Beverage Law  
199 with the exception of state funds collected pursuant to ss.  
200 ~~561.501~~, 563.05, 564.06, and 565.12 shall be deposited in the  
201 State Treasury to the credit of the trust fund, notwithstanding  
202 any other provision of law to the contrary. Moneys deposited to  
203 the credit of the trust fund shall be used to operate the  
204 division and to provide a proportionate share of the operation  
205 of the office of the secretary and the Division of  
206 Administration of the Department of Business and Professional  
207 Regulation; except that:

208           (1) The revenue transfer provisions of ss. 561.32 and  
209 561.342(1) and (2) shall continue in full force and effect, and  
210 the division shall cause such revenue to be returned to the  
211 municipality or county in the manner provided for in s. 561.32  
212 or s. 561.342(1) and (2); and

213           (2) Ten percent of the revenues derived from retail  
214 tobacco products dealer permit fees collected under s. 569.003  
215 shall be transferred to the Department of Education to provide  
216 for teacher training and for research and evaluation to reduce  
217 and prevent the use of tobacco products by children.



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218 |           Section 8. Except as otherwise expressly provided in this  
219 | act, this act shall take effect July 1, 2005.