

1 A bill to be entitled

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

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsections (1) and (4) of section 561.121,
25 Florida Statutes, are amended to read:

26 561.121 Deposit of revenue.--

27 | (1) All state funds collected pursuant to ss. 563.05,
 28 | 564.06, and 565.12 shall be paid into the State Treasury and
 29 | disbursed in the following manner:

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

35 | ~~2. Beginning July 1, 2004, there is annually distributed~~
 36 | ~~\$15 million to the Grants and Donations Trust Fund within the~~
 37 | ~~Department of Elderly Affairs, and these funds are annually~~
 38 | ~~appropriated to support a contract with the Johnnie B. Byrd,~~
 39 | ~~Sr., Alzheimer's Center and Research Institute at the University~~
 40 | ~~of South Florida for the purposes of conducting research,~~
 41 | ~~developing and operating integrated data projects, and providing~~
 42 | ~~assistance to memory disorder clinics as established in s.~~
 43 | ~~430.502.~~

44 | 2.3 Beginning July 1, 2004, there is annually distributed
 45 | \$6 million to the Biomedical Research Trust Fund within the
 46 | Department of Health, and these funds are annually appropriated
 47 | to the James and Esther King Biomedical Research Program. From
 48 | these funds, up to \$250,000 shall be available annually for the
 49 | operating costs of the Florida Center for Universal Research to
 50 | Eradicate Disease.

51 | ~~4. Beginning July 1, 2004, there is annually distributed~~
 52 | ~~\$9 million to be paid by warrant drawn by the Chief Financial~~
 53 | ~~Officer upon the State Treasury to Florida State University for~~
 54 | ~~the School of Chiropractic Medicine. Notwithstanding the~~

55 ~~provisions of chapter 216, until the School of Chiropractic~~
 56 ~~Medicine is completely staffed and fully operational, these~~
 57 ~~funds may be used for any purpose by the university.~~

58 (b) The remainder of collection shall be credited to the
 59 General Revenue Fund.

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

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

70 ~~2. The remainder of collections shall be credited to the~~
 71 ~~General Revenue Fund.~~

72 ~~(b) For the 2004 2005 state fiscal year only, and~~
 73 ~~notwithstanding the provisions of subparagraph (a)1., moneys in~~
 74 ~~the Children and Adolescents Substance Abuse Trust Fund may also~~
 75 ~~be used for the purpose of funding programs directed at reducing~~
 76 ~~and eliminating substance abuse problems among adults. This~~
 77 ~~paragraph expires July 1, 2005.~~

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

81 561.121 Deposit of revenue.--

82 ~~(4) State funds collected pursuant to s. 561.501 shall be~~
 83 ~~paid into the State Treasury and credited to the General Revenue~~
 84 ~~Fund.~~

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

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

97 Section 4. Paragraph (e) of subsection (4) of section
 98 215.20, Florida Statutes, is amended to read:

99 215.20 Certain income and certain trust funds to
 100 contribute to the General Revenue Fund.--

101 (4) The income of a revenue nature deposited in the
 102 following described trust funds, by whatever name designated, is
 103 that from which the appropriations authorized by subsection (3)
 104 shall be made:

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

- 106 1. The Administrative Trust Fund.
- 107 2. The Child Welfare Training Trust Fund.
- 108 3. ~~The Children and Adolescents Substance Abuse Trust~~
 109 ~~Fund.~~

- 110 ~~3.4.~~ The Domestic Violence Trust Fund.
- 111 ~~4.5.~~ The Grants and Donations Trust Fund.
- 112 ~~5.6.~~ The Operations and Maintenance Trust Fund.

113

114 The enumeration of the foregoing moneys or trust funds shall not

115 prohibit the applicability thereto of s. 215.24 should the

116 Governor determine that for the reasons mentioned in s. 215.24

117 the money or trust funds should be exempt herefrom, as it is the

118 purpose of this law to exempt income from its force and effect

119 when, by the operation of this law, federal matching funds or

120 contributions or private grants to any trust fund would be lost

121 to the state.

122 Section 5. Section 561.501, Florida Statutes, is amended

123 to read:

124 561.501 Surcharge on sale of alcoholic beverages for

125 consumption on the premises; penalty.--

126 ~~(1) Notwithstanding s. 561.50 or any other provision of~~

127 ~~the Beverage Law, a surcharge of 3.34 cents is imposed upon each~~

128 ~~ounce of liquor and each 4 ounces of wine, a surcharge of 2~~

129 ~~cents is imposed on each 12 ounces of cider, and a surcharge of~~

130 ~~1.34 cents is imposed on each 12 ounces of beer sold at retail~~

131 ~~for consumption on premises licensed by the division as an~~

132 ~~alcoholic beverage vendor. However, the surcharges imposed under~~

133 ~~this subsection need not be paid upon such beverages when they~~

134 ~~are sold by an organization that is licensed by the division~~

135 ~~under s. 561.422 or s. 565.02(4) as an alcoholic beverage vendor~~

136 ~~and that is determined by the Internal Revenue Service to be~~

137 ~~currently exempt from federal income tax under s. 501(c)(3),~~

138 ~~(4), (5), (6), (7), (8), or (19) of the Internal Revenue Code of~~
139 ~~1986, as amended.~~

140 (1)~~(2)~~ The vendor shall report and remit payments to the
141 division each month by the 15th of the month following the month
142 in which the surcharges are imposed. For purposes of
143 compensating the retailer for the keeping of prescribed records
144 and the proper accounting and remitting of surcharges imposed
145 under this section, the retailer shall be allowed to deduct from
146 the payment due the state 1 percent of the amount of the
147 surcharge due. Retail records shall be kept on the quantities of
148 all liquor, wine, and beer purchased, inventories, and sales.
149 However, a collection allowance is not allowed on any
150 collections that are not timely remitted. If by the 20th of the
151 month following the month in which the surcharges are imposed,
152 reports and remittances are not made, the division shall assess
153 a late penalty in the amount of 10 percent of the amount due per
154 month for each 30 days, or fraction thereof, after the 20th of
155 the month, not to exceed a total penalty of 50 percent, in the
156 aggregate, of any unpaid surcharges. The division shall
157 establish, by rule, the required reporting, collection, and
158 accounting procedures. Records must be maintained for 3 years.
159 Failure to accurately and timely remit surcharges imposed under
160 this section is a violation of the Beverage Law.

161 (2)~~(3)~~(a) The division may compromise a taxpayer's
162 liability for the surcharge imposed by this section upon the
163 grounds of doubt as to liability for or collectibility of such
164 tax. A taxpayer's liability for penalties as prescribed by this
165 section may be settled or compromised if the division finds that

166 the noncompliance is due to reasonable cause and not to willful
167 negligence, willful neglect, or fraud. The division shall
168 maintain records of all compromises, and the records must state
169 the basis for the compromise.

170 (b) The division may enter into agreements for scheduling
171 payments of taxes, interest, and penalties prescribed in this
172 section.

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

175 ~~(3)-(4)~~ If any vendor fails to remit the surcharge, or any
176 portion thereof, by the 20th of the month following the month in
177 which the surcharges are imposed, there shall be added to the
178 amount due interest at the rate of 1 percent per month of the
179 amount due from the date due until paid. Interest on the
180 delinquent tax shall be calculated beginning on the 21st day of
181 the month following the month for which the surcharge is due.

182 ~~(4)-(5)~~ All penalties and interest imposed by this section
183 are payable to and collectible by the division in the same
184 manner as if they were a part of the tax imposed. The division
185 may settle or compromise any such interest or penalty under
186 paragraph ~~(2)-(3)~~(a).

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

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

191 561.025 Alcoholic Beverage and Tobacco Trust Fund.--There
192 is created within the State Treasury the Alcoholic Beverage and
193 Tobacco Trust Fund. All funds collected by the division under

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

204 (1) The revenue transfer provisions of ss. 561.32 and
205 561.342(1) and (2) shall continue in full force and effect, and
206 the division shall cause such revenue to be returned to the
207 municipality or county in the manner provided for in s. 561.32
208 or s. 561.342(1) and (2); and

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

214 Section 8. Except as otherwise expressly provided in this
215 act, this act shall take effect July 1, 2005.