

By Senator Posey

24-673A-05

1    A bill to be entitled  
2                    An act relating to surcharges and taxes on  
3                    alcoholic beverages; amending s. 561.501, F.S.;  
4                    eliminating the surcharge imposed on the sale  
5                    of alcoholic beverages for consumption on the  
6                    premises; providing for the future expiration  
7                    of provisions governing imposition of the  
8                    surcharge; amending s. 561.121, F.S.; requiring  
9                    that a portion of the proceeds from certain  
10                    excise taxes on alcoholic beverages be  
11                    deposited into the Children and Adolescents  
12                    Substance Abuse Trust Fund within the  
13                    Department of Children and Family Services;  
14                    amending s. 561.025, F.S., relating to the  
15                    Alcoholic Beverage and Tobacco Trust Fund;  
16                    conforming provisions to changes made by the  
17                    act; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21                    Section 1. Section 561.501, Florida Statutes, is  
22 amended to read:

23                    561.501 Surcharge on sale of alcoholic beverages for  
24 consumption on the premises; penalty.--

25                    (1) Notwithstanding s. 561.50 or any other provision  
26 of the Beverage Law, a surcharge of 3.34 cents is imposed upon  
27 each ounce of liquor and each 4 ounces of wine, a surcharge of  
28 2 cents is imposed on each 12 ounces of cider, and a surcharge  
29 of 1.34 cents is imposed on each 12 ounces of beer sold at  
30 retail for consumption on premises licensed by the division as  
31 an alcoholic beverage vendor. However, the surcharges imposed

1 | under this subsection need not be paid upon such beverages  
2 | when they are sold by an organization that is licensed by the  
3 | division under s. 561.422 or s. 565.02(4) as an alcoholic  
4 | beverage vendor and that is determined by the Internal Revenue  
5 | Service to be currently exempt from federal income tax under  
6 | s. 501(c)(3), (4), (5), (6), (7), (8), or (19) of the Internal  
7 | Revenue Code of 1986, as amended. Effective July 1, 2005, this  
8 | surcharge shall no longer be imposed.

9 |         (2) The vendor shall report and remit payments to the  
10 | division each month by the 15th of the month following the  
11 | month in which the surcharges are imposed. For purposes of  
12 | compensating the retailer for the keeping of prescribed  
13 | records and the proper accounting and remitting of surcharges  
14 | imposed under this section, the retailer shall be allowed to  
15 | deduct from the payment due the state 1 percent of the amount  
16 | of the surcharge due. Retail records shall be kept on the  
17 | quantities of all liquor, wine, and beer purchased,  
18 | inventories, and sales. However, a collection allowance is  
19 | not allowed on any collections that are not timely remitted.  
20 | If by the 20th of the month following the month in which the  
21 | surcharges are imposed, reports and remittances are not made,  
22 | the division shall assess a late penalty in the amount of 10  
23 | percent of the amount due per month for each 30 days, or  
24 | fraction thereof, after the 20th of the month, not to exceed a  
25 | total penalty of 50 percent, in the aggregate, of any unpaid  
26 | surcharges. The division shall establish, by rule, the  
27 | required reporting, collection, and accounting procedures.  
28 | Records must be maintained for 3 years. Failure to accurately  
29 | and timely remit surcharges imposed under this section is a  
30 | violation of the Beverage Law.

31 |

1           (3)(a) The division may compromise a taxpayer's  
2 liability for the surcharge imposed by this section upon the  
3 grounds of doubt as to liability for or collectibility of such  
4 tax. A taxpayer's liability for penalties as prescribed by  
5 this section may be settled or compromised if the division  
6 finds that the noncompliance is due to reasonable cause and  
7 not to willful negligence, willful neglect, or fraud. The  
8 division shall maintain records of all compromises, and the  
9 records must state the basis for the compromise.

10           (b) The division may enter into agreements for  
11 scheduling payments of taxes, interest, and penalties  
12 prescribed in this section.

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

15           (4) If any vendor fails to remit the surcharge, or any  
16 portion thereof, by the 20th of the month following the month  
17 in which the surcharges are imposed, there shall be added to  
18 the amount due interest at the rate of 1 percent per month of  
19 the amount due from the date due until paid. Interest on the  
20 delinquent tax shall be calculated beginning on the 21st day  
21 of the month following the month for which the surcharge is  
22 due.

23           (5) All penalties and interest imposed by this section  
24 are payable to and collectible by the division in the same  
25 manner as if they were a part of the tax imposed. The  
26 division may settle or compromise any such interest or penalty  
27 under paragraph (3)(a).

28           (6) This section expires July 1, 2008.

29           Section 2. Subsections (1) and (4) of section 561.121,  
30 Florida Statutes, are amended to read:

31           561.121 Deposit of revenue.--

1 (1) All state funds collected pursuant to ss. 563.05,  
2 564.06, and 565.12 shall be paid into the State Treasury and  
3 disbursed in the following manner:

4 (a)1. Two percent of monthly collections of the excise  
5 taxes on alcoholic beverages established in ss. 563.05,  
6 564.06, and 565.12 shall be deposited into the Alcoholic  
7 Beverage and Tobacco Trust Fund to meet the division's  
8 appropriation for the state fiscal year.

9 2. Beginning July 1, 2005, 2.2 percent of monthly  
10 collections of the excise taxes on alcoholic beverages  
11 established in ss. 563.05, 564.06, and 565.12 shall be  
12 deposited into the Children and Adolescents Substance Abuse  
13 Trust Fund within the Department of Children and Family  
14 Services for the purpose of funding programs directed at  
15 reducing and eliminating substance abuse among children and  
16 adolescents.

17 ~~3.2-~~ Beginning July 1, 2004, there is annually  
18 distributed \$15 million to the Grants and Donations Trust Fund  
19 within the Department of Elderly Affairs, and these funds are  
20 annually appropriated to support a contract with the Johnnie  
21 B. Byrd, Sr., Alzheimer's Center and Research Institute at the  
22 University of South Florida for the purposes of conducting  
23 research, developing and operating integrated data projects,  
24 and providing assistance to memory disorder clinics as  
25 established in s. 430.502.

26 ~~4.3-~~ Beginning July 1, 2004, there is annually  
27 distributed \$6 million to the Biomedical Research Trust Fund  
28 within the Department of Health, and these funds are annually  
29 appropriated to the James and Esther King Biomedical Research  
30 Program. From these funds, up to \$250,000 shall be available  
31

1 annually for the operating costs of the Florida Center for  
2 Universal Research to Eradicate Disease.

3 ~~5.4.~~ Beginning July 1, 2004, there is annually  
4 distributed \$9 million to be paid by warrant drawn by the  
5 Chief Financial Officer upon the State Treasury to Florida  
6 State University for the School of Chiropractic Medicine.  
7 Notwithstanding the provisions of chapter 216, until the  
8 School of Chiropractic Medicine is completely staffed and  
9 fully operational, these funds may be used for any purpose by  
10 the university.

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

13 ~~(4)(a) State funds collected pursuant to s. 561.501~~  
14 ~~shall be paid into the State Treasury and credited to the~~  
15 ~~following accounts:~~

16 ~~1. Twenty seven and two tenths percent of the~~  
17 ~~surcharge on the sale of alcoholic beverages for consumption~~  
18 ~~on premises shall be transferred to the Children and~~  
19 ~~Adolescents Substance Abuse Trust Fund, which shall remain~~  
20 ~~with the Department of Children and Family Services for the~~  
21 ~~purpose of funding programs directed at reducing and~~  
22 ~~eliminating substance abuse problems among children and~~  
23 ~~adolescents.~~

24 ~~2. The remainder of collections shall be credited to~~  
25 ~~the General Revenue Fund.~~

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

1           Section 3. Section 561.025, Florida Statutes, is  
2 amended to read:

3           561.025 Alcoholic Beverage and Tobacco Trust  
4 Fund.--There is created within the State Treasury the  
5 Alcoholic Beverage and Tobacco Trust Fund. All funds collected  
6 by the division under ss. 210.15, 210.40, or under s. 569.003  
7 and the Beverage Law with the exception of state funds  
8 collected pursuant to ss. ~~561.501~~, 563.05, 564.06, and 565.12  
9 shall be deposited in the State Treasury to the credit of the  
10 trust fund, notwithstanding any other provision of law to the  
11 contrary. Moneys deposited to the credit of the trust fund  
12 shall be used to operate the division and to provide a  
13 proportionate share of the operation of the office of the  
14 secretary and the Division of Administration of the Department  
15 of Business and Professional Regulation; except that:

16           (1) The revenue transfer provisions of ss. 561.32 and  
17 561.342(1) and (2) shall continue in full force and effect,  
18 and the division shall cause such revenue to be returned to  
19 the municipality or county in the manner provided for in s.  
20 561.32 or s. 561.342(1) and (2); and

21           (2) Ten percent of the revenues derived from retail  
22 tobacco products dealer permit fees collected under s. 569.003  
23 shall be transferred to the Department of Education to provide  
24 for teacher training and for research and evaluation to reduce  
25 and prevent the use of tobacco products by children.

26           Section 4. This act shall take effect July 1, 2005.  
27  
28  
29  
30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

\*\*\*\*\*

SENATE SUMMARY

Eliminates, effective July 1, 2005, the surcharge imposed on the sale of alcoholic beverages for consumption on the premises. Requires that certain excise taxes on alcoholic beverages be deposited into the Children and Adolescents Substance Abuse Trust Fund.