

Bill No. SB 1292

Barcode 241218

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Haridopolos)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Subsection (4) of section 561.121, Florida  
Statutes, is amended to read:

561.121 Deposit of revenue.--

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

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

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

3           ~~(b) For the 2004-2005 state fiscal year only, and~~  
4 ~~notwithstanding the provisions of subparagraph (a)1., moneys~~  
5 ~~in the Children and Adolescents Substance Abuse Trust Fund may~~  
6 ~~also be used for the purpose of funding programs directed at~~  
7 ~~reducing and eliminating substance abuse problems among~~  
8 ~~adults. This paragraph expires July 1, 2005.~~

9           Section 2. Effective July 1, 2007, subsection (4) of  
10 section 561.121, Florida Statutes, as amended by this act, is  
11 amended to read:

12           561.121 Deposit of revenue.--

13           ~~(4) State funds collected pursuant to s. 561.501 shall~~  
14 ~~be paid into the State Treasury and credited to the General~~  
15 ~~Revenue Fund.~~

16           Section 3. (1) The Children and Adolescents Substance  
17 Abuse Trust Fund within the Department of Children and Family  
18 Services, FLAIR number 60-2-088, is terminated.

19           (2) The current balance remaining in and all revenues  
20 of the trust fund shall be transferred to the General Revenue  
21 Fund.

22           (3) The Department of Children and Family Services  
23 shall pay any outstanding debts and obligations of the  
24 terminated fund as soon as practicable, and the Chief  
25 Financial Officer shall close out and remove the terminated  
26 fund from the various state accounting systems using generally  
27 accepted accounting principles concerning warrants  
28 outstanding, assets, and liabilities.

29           Section 4. Paragraph (e) of subsection (4) of section  
30 215.20, Florida Statutes, is amended to read:

31           215.20 Certain income and certain trust funds to

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1 contribute to the General Revenue Fund.--

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

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

- 8 1. The Administrative Trust Fund.
- 9 2. The Child Welfare Training Trust Fund.
- 10 ~~3. The Children and Adolescents Substance Abuse Trust~~
- 11 ~~Fund.~~
- 12 ~~3.4.~~ The Domestic Violence Trust Fund.
- 13 ~~4.5.~~ The Grants and Donations Trust Fund.
- 14 ~~5.6.~~ The Operations and Maintenance Trust Fund.

15  
16 The enumeration of the foregoing moneys or trust funds shall  
17 not prohibit the applicability thereto of s. 215.24 should the  
18 Governor determine that for the reasons mentioned in s. 215.24  
19 the money or trust funds should be exempt herefrom, as it is  
20 the purpose of this law to exempt income from its force and  
21 effect when, by the operation of this law, federal matching  
22 funds or contributions or private grants to any trust fund  
23 would be lost to the state.

24 Section 5. Section 561.501, Florida Statutes, is  
25 amended to read:

26 561.501 Surcharge on sale of alcoholic beverages for  
27 consumption on the premises; penalty.--

28 ~~(1) Notwithstanding s. 561.50 or any other provision~~  
29 ~~of the Beverage Law, a surcharge of 3.34 cents is imposed upon~~  
30 ~~each ounce of liquor and each 4 ounces of wine, a surcharge of~~  
31 ~~2 cents is imposed on each 12 ounces of cider, and a surcharge~~

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1 ~~of 1.34 cents is imposed on each 12 ounces of beer sold at~~  
 2 ~~retail for consumption on premises licensed by the division as~~  
 3 ~~an alcoholic beverage vendor. However, the surcharges imposed~~  
 4 ~~under this subsection need not be paid upon such beverages~~  
 5 ~~when they are sold by an organization that is licensed by the~~  
 6 ~~division under s. 561.422 or s. 565.02(4) as an alcoholic~~  
 7 ~~beverage vendor and that is determined by the Internal Revenue~~  
 8 ~~Service to be currently exempt from federal income tax under~~  
 9 ~~s. 501(c)(3), (4), (5), (6), (7), (8), or (19) of the Internal~~  
 10 ~~Revenue Code of 1986, as amended.~~

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

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1 violation of the Beverage Law.

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

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

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

16       ~~(3)(4)~~ If any vendor fails to remit the surcharge, or  
17 any portion thereof, by the 20th of the month following the  
18 month in which the surcharges are imposed, there shall be  
19 added to the amount due interest at the rate of 1 percent per  
20 month of the amount due from the date due until paid. Interest  
21 on the delinquent tax shall be calculated beginning on the  
22 21st day of the month following the month for which the  
23 surcharge is due.

24       ~~(4)(5)~~ All penalties and interest imposed by this  
25 section are payable to and collectible by the division in the  
26 same manner as if they were a part of the tax imposed. The  
27 division may settle or compromise any such interest or penalty  
28 under paragraph~~(2)(a)~~ ~~(3)(a)~~.

29           Section 6. Section 561.025, Florida Statutes, is  
30 amended to read:

31           561.025 Alcoholic Beverage and Tobacco Trust

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

13           (1) The revenue transfer provisions of ss. 561.32 and  
 14 561.342(1) and (2) shall continue in full force and effect,  
 15 and the division shall cause such revenue to be returned to  
 16 the municipality or county in the manner provided for in s.  
 17 561.32 or s. 561.342(1) and (2); and

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

23           Section 7. Effective July 1, 2007, section 561.501,  
 24 Florida Statutes, is repealed.

25           Section 8. The sum of \$11,298,205 is appropriated from  
 26 the General Revenue Fund to the Department of Children and  
 27 Family Services for purposes of reducing or eliminating  
 28 substance abuse in children and adolescents.

29           Section 9. Except as otherwise expressly provided in  
 30 this act, this act shall take effect July 1, 2006.

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3           Delete everything before the enacting clause

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5 and insert:

6                           A bill to be entitled

7           An act relating to the taxation of alcoholic  
8           beverages; amending s. 561.121, F.S.; deleting  
9           provisions crediting specified taxes on  
10          alcoholic beverages to accounts funding  
11          substance abuse programs for children and  
12          adolescents; providing for future deletion of a  
13          provision providing for payment and credit of  
14          alcoholic beverage surcharge funds to the  
15          General Revenue Fund to conform; terminating  
16          the Children and Adolescents Substance Abuse  
17          Trust Fund within the Department of Children  
18          and Family Services; providing for disposition  
19          of balances in and revenues of such trust fund;  
20          amending s. 215.20, F.S.; conforming provisions  
21          to the repeal of the trust fund; amending s.  
22          561.501, F.S.; deleting a provision imposing a  
23          surcharge on alcoholic beverages sold for  
24          consumption on the premises; amending s.  
25          561.025, F.S., to conform; providing for future  
26          repeal of s. 561.501, F.S., relating to the  
27          collection of the alcoholic beverage surcharge;  
28          providing an appropriation; providing effective  
29          dates.

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