

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

20  
 21   Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. Subsection (4) of section 561.121, Florida  
 24           Statutes, is amended to read:

25           561.121   Deposit of revenue.--

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

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

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

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

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

47 561.121 Deposit of revenue.--

48 ~~(4) State funds collected pursuant to s. 561.501 shall be~~  
 49 ~~paid into the State Treasury and credited to the General Revenue~~  
 50 ~~Fund.~~

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

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

56 (3) The Department of Children and Family Services shall

57 pay any outstanding debts and obligations of the terminated fund  
 58 as soon as practicable, and the Chief Financial Officer shall  
 59 close out and remove the terminated fund from the various state  
 60 accounting systems using generally accepted accounting  
 61 principles concerning warrants outstanding, assets, and  
 62 liabilities.

63 Section 4. Paragraph (e) of subsection (4) of section  
 64 215.20, Florida Statutes, is amended to read:

65 215.20 Certain income and certain trust funds to  
 66 contribute to the General Revenue Fund.--

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

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

- 72 1. The Administrative Trust Fund.
- 73 2. The Child Welfare Training Trust Fund.
- 74 ~~3. The Children and Adolescents Substance Abuse Trust~~  
 75 ~~Fund.~~
- 76 ~~3.4.~~ The Domestic Violence Trust Fund.
- 77 ~~4.5.~~ The Grants and Donations Trust Fund.
- 78 ~~5.6.~~ The Operations and Maintenance Trust Fund.

79  
 80 The enumeration of the foregoing moneys or trust funds shall not  
 81 prohibit the applicability thereto of s. 215.24 should the  
 82 Governor determine that for the reasons mentioned in s. 215.24  
 83 the money or trust funds should be exempt herefrom, as it is the  
 84 purpose of this law to exempt income from its force and effect

85 when, by the operation of this law, federal matching funds or  
 86 contributions or private grants to any trust fund would be lost  
 87 to the state.

88 Section 5. Section 561.501, Florida Statutes, is amended  
 89 to read:

90 561.501 Surcharge on sale of alcoholic beverages for  
 91 consumption on the premises; penalty.--

92 ~~(1) Notwithstanding s. 561.50 or any other provision of~~  
 93 ~~the Beverage Law, a surcharge of 3.34 cents is imposed upon each~~  
 94 ~~ounce of liquor and each 4 ounces of wine, a surcharge of 2~~  
 95 ~~cents is imposed on each 12 ounces of cider, and a surcharge of~~  
 96 ~~1.34 cents is imposed on each 12 ounces of beer sold at retail~~  
 97 ~~for consumption on premises licensed by the division as an~~  
 98 ~~alcoholic beverage vendor. However, the surcharges imposed under~~  
 99 ~~this subsection need not be paid upon such beverages when they~~  
 100 ~~are sold by an organization that is licensed by the division~~  
 101 ~~under s. 561.422 or s. 565.02(4) as an alcoholic beverage vendor~~  
 102 ~~and that is determined by the Internal Revenue Service to be~~  
 103 ~~currently exempt from federal income tax under s. 501(c)(3),~~  
 104 ~~(4), (5), (6), (7), (8), or (19) of the Internal Revenue Code of~~  
 105 ~~1986, as amended.~~

106 (1)~~(2)~~ The vendor shall report and remit payments to the  
 107 division each month by the 15th of the month following the month  
 108 in which the surcharges are imposed. For purposes of  
 109 compensating the retailer for the keeping of prescribed records  
 110 and the proper accounting and remitting of surcharges imposed  
 111 under this section, the retailer shall be allowed to deduct from  
 112 the payment due the state 1 percent of the amount of the

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113 surcharge due. Retail records shall be kept on the quantities of  
114 all liquor, wine, and beer purchased, inventories, and sales.  
115 However, a collection allowance is not allowed on any  
116 collections that are not timely remitted. If by the 20th of the  
117 month following the month in which the surcharges are imposed,  
118 reports and remittances are not made, the division shall assess  
119 a late penalty in the amount of 10 percent of the amount due per  
120 month for each 30 days, or fraction thereof, after the 20th of  
121 the month, not to exceed a total penalty of 50 percent, in the  
122 aggregate, of any unpaid surcharges. The division shall  
123 establish, by rule, the required reporting, collection, and  
124 accounting procedures. Records must be maintained for 3 years.  
125 Failure to accurately and timely remit surcharges imposed under  
126 this section is a violation of the Beverage Law.

127 (2)~~(3)~~(a) The division may compromise a taxpayer's  
128 liability for the surcharge imposed by this section upon the  
129 grounds of doubt as to liability for or collectibility of such  
130 tax. A taxpayer's liability for penalties as prescribed by this  
131 section may be settled or compromised if the division finds that  
132 the noncompliance is due to reasonable cause and not to willful  
133 negligence, willful neglect, or fraud. The division shall  
134 maintain records of all compromises, and the records must state  
135 the basis for the compromise.

136 (b) The division may enter into agreements for scheduling  
137 payments of taxes, interest, and penalties prescribed in this  
138 section.

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

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141        (3)~~(4)~~ If any vendor fails to remit the surcharge, or any  
142 portion thereof, by the 20th of the month following the month in  
143 which the surcharges are imposed, there shall be added to the  
144 amount due interest at the rate of 1 percent per month of the  
145 amount due from the date due until paid. Interest on the  
146 delinquent tax shall be calculated beginning on the 21st day of  
147 the month following the month for which the surcharge is due.

148        (4)~~(5)~~ All penalties and interest imposed by this section  
149 are payable to and collectible by the division in the same  
150 manner as if they were a part of the tax imposed. The division  
151 may settle or compromise any such interest or penalty under  
152 paragraph (2)(a) ~~(3)(a)~~.

153        Section 6. Section 561.025, Florida Statutes, is amended  
154 to read:

155        561.025 Alcoholic Beverage and Tobacco Trust Fund.--There  
156 is created within the State Treasury the Alcoholic Beverage and  
157 Tobacco Trust Fund. All funds collected by the division under  
158 ss. 210.15, 210.40, or under s. 569.003 and the Beverage Law  
159 with the exception of state funds collected pursuant to ss.  
160 ~~561.501~~, 563.05, 564.06, and 565.12 shall be deposited in the  
161 State Treasury to the credit of the trust fund, notwithstanding  
162 any other provision of law to the contrary. Moneys deposited to  
163 the credit of the trust fund shall be used to operate the  
164 division and to provide a proportionate share of the operation  
165 of the office of the secretary and the Division of  
166 Administration of the Department of Business and Professional  
167 Regulation; except that:

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168 (1) The revenue transfer provisions of ss. 561.32 and  
169 561.342(1) and (2) shall continue in full force and effect, and  
170 the division shall cause such revenue to be returned to the  
171 municipality or county in the manner provided for in s. 561.32  
172 or s. 561.342(1) and (2); and

173 (2) Ten percent of the revenues derived from retail  
174 tobacco products dealer permit fees collected under s. 569.003  
175 shall be transferred to the Department of Education to provide  
176 for teacher training and for research and evaluation to reduce  
177 and prevent the use of tobacco products by children.

178 Section 7. Effective July 1, 2007, section 561.501,  
179 Florida Statutes, is repealed.

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

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