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 HB 7105, Engrossed 1

2006 Legislature

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:~~

ENROLLED
 HB 7105, Engrossed 1

2006 Legislature

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, 2008, 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

ENROLLED
 HB 7105, Engrossed 1

2006 Legislature

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

ENROLLED

HB 7105, Engrossed 1

2006 Legislature

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

ENROLLED

HB 7105, Engrossed 1

2006 Legislature

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.

ENROLLED
 HB 7105, Engrossed 1

2006 Legislature

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:

ENROLLED

HB 7105, Engrossed 1

2006 Legislature

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, 2008, 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, 2007.