

## House Bill No. 7105

An act relating to the taxation of alcoholic beverages; amending s. 561.121, F.S.; deleting provisions crediting specified taxes on alcoholic beverages to accounts funding substance abuse programs for children and adolescents; providing for future deletion of a provision providing for payment and credit of alcoholic beverage surcharge funds to the General Revenue Fund to conform; terminating the Children and Adolescents Substance Abuse Trust Fund within the Department of Children and Family Services; providing for disposition of balances in and revenues of such trust fund; amending s. 215.20, F.S.; conforming provisions to the repeal of the trust fund; amending s. 561.501, F.S.; deleting a provision imposing a surcharge on alcoholic beverages sold for consumption on the premises; amending s. 561.025, F.S., to conform; providing for future repeal of s. 561.501, F.S., relating to the collection of the alcoholic beverage surcharge; providing an appropriation; providing effective dates.

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

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:

1. ~~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.~~

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

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

Section 2. Effective July 1, 2008, subsection (4) of section 561.121, Florida Statutes, as amended by this act, is amended to read:

561.121 Deposit of revenue.—

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

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

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

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

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

215.20 Certain income and certain trust funds to contribute to the General Revenue Fund.—

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

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

1. The Administrative Trust Fund.
2. The Child Welfare Training Trust Fund.
- ~~3. The Children and Adolescents Substance Abuse Trust Fund.~~
- 3.4. The Domestic Violence Trust Fund.
- 4.5. The Grants and Donations Trust Fund.
- 5.6. The Operations and Maintenance Trust Fund.

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

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

561.501 Surcharge on sale of alcoholic beverages for consumption on the premises; penalty.—

~~(1) Notwithstanding s. 561.50 or any other provision of the Beverage Law, a surcharge of 3.34 cents is imposed upon each ounce of liquor and each 4 ounces of wine, a surcharge of 2 cents is imposed on each 12 ounces of cider, and a surcharge of 1.34 cents is imposed on each 12 ounces of beer sold at~~

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

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

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

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

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

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

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

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

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

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

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

Section 7. Effective July 1, 2008, section 561.501, Florida Statutes, is repealed.

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

Section 9. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2007.

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.