SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 770

SPONSOR: Fiscal Resource Committee, Senator Latvala and others

SUBJECT: Alcoholic Beverages/Surcharge

DATE: February 23, 2000 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Keating	Wood	FR	Favorable/CS
2.			RI	
3.				
4.				
5.				

I. Summary:

The Committee Substitute reduces the surcharge on alcoholic beverages consumed-on-the-premises of licensed retailer by one-third effective September 1, 2000. In addition, the bill exempts from the surcharge, alcoholic beverages sold by certain nonprofit organizations. The Committee Substitute also maintains the current funding from the surcharge to the Children and Adolescents Substance Abuse Trust Fund.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 561.501 and 561.121

II. Present Situation:

In 1990, the Legislature created s. 561.501, F.S., which imposed an alcoholic beverage surcharge on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises. The surcharge was ten cents on each one ounce of liquor or four ounces of wine, six cents on each 12 ounces of cider and four cents on each 12 ounces of beer.

There have been several attempts to eliminate the surcharge over the past several years. Legislation was enacted during the 1997 Session, ch. 97-213, L.O.F., which would have repealed the surcharge effective July 1, 1999, contingent upon collection of sufficient increased excise tax revenue. The surcharge would have been repealed if 1998 calendar year excise tax collections were greater than $535 million. The repeal passed as part of a bill dealing with the unlawful direct shipping of alcoholic beverages. The nexus between the two issues is the belief that substantial tax dollars are lost due to unlawful direct shipping and that, if recouped, the increased excise & sales tax revenue might be sufficient to offset the surcharge repeal. Section 1 of ch. 97-213, L.O.F., required the Department of Business and Professional Regulation (DBPR) to report to the Legislature by March 1, 1999, the total amount of revenue collected pursuant to this law during calendar year 1998. The DBPR certified to the Legislature on February 19, 1999, that the amount of taxes due and paid during calendar year 1998 under ss. 563.05, 564.06, 565.12, and 561.54, F.S., was $464,185,488.

The 1999 Legislature reduced the surcharge by one-third. Effective September 1, 1999, the surcharge is 6.67 cents on each one ounce of liquor or four ounces of wine, 4 cents on each 12 ounces of cider and 2.67 cents on each 12 ounces of beer.

Retailers are required to remit the alcoholic beverage surcharge monthly and may pay the surcharge based on their actual on-premise sales during the previous month or up-front, based on the amount of alcoholic beverage purchases they made from licensed wholesalers. The Division of Alcoholic Beverages and Tobacco reports that approximately 87% of retailers utilize the purchase method to calculate the surcharge. The sales method of calculations and remittance involves a more cumbersome record keeping procedure which often results in retailer miscalculations. For FY 1998-99, the retail surcharge generated $110.4 million in tax revenues and is estimated to generate $83.5 million in FY 1999-00.

Retailers are allowed to retain 1% of the monthly surcharge owed to the state to cover their cost of maintaining appropriate records and remitting the tax in a timely manner.

Section 561.121, F.S., requires thirteen and six-tenths of surcharge collections to be transferred to the Children and Adolescents Substance Abuse Trust Fund (CASA) for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents. In FY 1998-99, $10,173,395 was transferred from surcharge collections to the CASA TF.

Section 3 of Chapter 97-213, Laws of Florida, contains an amendment to s. 561.121, Florida Statutes, which specifies that in the event the surcharge is repealed, $10 million annually will be transferred from excise tax collections to the CASA TF.

III. Effect of Proposed Changes:

CS/SB 770 amends s. 561.501, F.S., reducing by one-third, the surcharge on alcoholic beverages consumed on-the-premises of a licensed retailer. Effective September 1, 2000, the surcharge would be 3.34 cents on each one ounce of liquor or four ounces of wine, 2 cents on each 12 ounces of cider and 1.34 cents on each 12 ounces of beer. In addition, the Committee Substitute also provides an exemption for certain nonprofit organizations. Specifically, the surcharges need not be paid upon alcoholic beverages when sold by an organization that is licensed by the Division of Alcoholic Beverages and Tobacco under s. 565.02(4) or s. 561.422, F.S., 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), or (8) of the Internal Revenue Code of 1986, as amended.

The Committee Substitute also amends s. 561.121, F.S., increasing from thirteen and six-tenths to twenty-seven and two-tenths, the percentage of the surcharge which is deposited into the Children and Adolescents Substance Abuse Trust Fund, in order to maintain their current funding.

The Committee Substitute will take effect September 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The one-third reduction in the alcoholic beverage surcharge effective September 1, 2000, is estimated to reduce General Revenue in fiscal year 2000-01 by $30.3 million. The exemption for certain nonprofit organizations is estimated to reduce General Revenue in fiscal year 2000-01 by $1.7 million, with a recurring loss of General Revenue of $1.3 million.

	General Revenue		Trust		Local		Total	
Issue/Fund	1st Year $	Recurring $	1st Year $	Recurring $	1st Year $	Recurring $	1st Year $	Recurring $
Alcoholic Beverages								
Reduction of Surcharge	(30.3)	(37.4)	(0.9)	((0.6)	0.0	0.0	(30.5)	(38.0)
Nonprofit Exemption	(1.7)	(1.3)	(0.4)	(0.4)	0.0	0.0	(2.1)	(1.7)

* Insignificant
** Indeterminate

B. Private Sector Impact:

Affected alcoholic beverage licensees will incur costs associated with reprogramming their electronic cash registers and other record keeping functions as a result of the surcharge reduction.

The following types of s. 501(c) nonprofit organizations will no longer have to collect and remit the alcoholic beverage surcharge under this Committee Substitute: (3) - religious, charitable, scientific, literary, or educational; (4) - civic leagues, social welfare and local associations of employees; (5) - labor, agricultural and horticultural; (6) - business leagues, chambers of commerce and real estate boards; (7) - social and recreational clubs; and (8) - fraternal beneficiary societies and associations.

C. Government Sector Impact:

The Division of Alcoholic Beverages and Tobacco will incur the cost of informing licensees of the change in the tax rate and the necessary costs accompanying that change.

VI. Technical Deficiencies:

None.

VII. Related Issues:

HB 695 is similar to SB 770.

VIII. Amendments:

None.