SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 228

SPONSOR: Senator Latvala

SUBJECT: Alcoholic Beverages Sales Surcharge

DATE: January 17, 2001 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Guthrie	RI	Favorable
2.			CM	
3.			FT	
4.			AHS	
5.			AP	

I. Summary:

The bill repeals the remaining portion of the by-the-drink surcharge, effective July 1, 2001, and repeals provisions relating to collection and enforcement of the surcharge, effective July 1, 2004. This later date will allow a 3-year period for the Division of Alcoholic Beverages and Tobacco to conduct audits and ensure collection of all surcharge amounts that became due while the surcharge was in effect.

To preserve funding for the Children and Adolescents Substance Abuse Trust Fund, the bill provides for an annual transfer of ten million dollars to the trust fund.

The bill substantially amends s. 561.025 and provides for its later repeal, and amends ss. 561.121 and 561.025 of the Florida Statutes.

II. Present Situation:

Section 561.501, F.S., imposes a surcharge on alcoholic beverages sold by the drink for consumption on the premises. The surcharge was created in 1990 and was set at ten cents on each one ounce of liquor or four ounces of wine and four cents on each 12 ounces of beer. In 1997, a new surcharge of six cents on each 12 ounces of cider was imposed. s. 5, ch. 97-213, Laws of Fla. Because the surcharge is related to retail sales, it is much more difficult to administer than other taxes on alcoholic beverages.

In 1999, the Legislature began phasing out the surcharge. The rates set forth above were reduced by one-third in 1999 and again in 2000. This bill eliminates the remaining one-third of the pre-1999 rates.

Section 561.121(5), F.S., requires that a percentage of surcharge collections to be transferred to the Children and Adolescents Substance Abuse Trust Fund to fund programs directed at reducing and eliminating substance abuse problems among children and adolescents. Funding for the trust fund in FY 1998-99 was $10,173,395. To preserve this level of funding as the surcharge rate (and therefore receipts), have declined, the percentage of total surcharge payments transferred to the trust fund has been increased.

Section 561.501, F.S., also provides for the administration of the surcharge, including requirements for vendors to timely report and remit surcharge payments to the Division of Alcoholic Beverages and Tobacco, provisions for late penalties and interest on late reports and remittances, and provisions for compromising or settling penalties and interest. The Division is to enforce this section and to perform acts necessary to carry out the provisions thereof. s. 561.08, F.S. The Division is authorized to adopt rules to implement the provisions of the Beverage Law. s. 561.11, F.S. Department rules authorize Division employees to examine accounting records, invoices, or any other source documents used to determine a vendor's compliance with the by-the-drink surcharge requirements. Rule 61A-4.063(9), F.A.C.

III. Effect of Proposed Changes:

The bill provides that the by-the-drink surcharge is not to be imposed on or after July 1, 2001. The remainder of the statute, which provides for the collection of the surcharge, is repealed July 1, 2004. This will allow the Division a 3-year period to conduct audits and collect surcharge amounts that became due while the surcharge was still in effect.

To preserve the funding for the Children and Adolescents Substance Abuse Trust Fund, the bill provides for an annual transfer of ten million dollars to the trust fund.

The bill makes conforming changes, deleting the now-obsolete language relating to a transfer of a percentage of surcharge collections into the Trust Fund and deleting a cross-reference to the surcharge statute.

The bill takes effect July 1, 2001, with the repeal of s. 561.501, F.S., effective July 1, 2004.

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:

In 1999, the Legislature began to phase out the by-the-drink surcharge. In 1999 and again 2000, the Legislature reduced the surcharge rates by one-third relative to the FY 1998-99 rates. Effective September 1, 1999, the surcharge on each one ounce of liquor or four ounces of wine was reduced from 10 cents to 6.67 cents; the surcharge on each 12 ounces of cider was reduced from 6 cents to 4 cents; and the surcharge on each 12 ounces of beer was reduced from 4 cents to 2.67 cents. s.14, ch. 99-239, Laws of Fla. In 2000, the surcharge was further reduced, effective July 1, 2000, to 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. s.1, ch. 2000-354, Laws of Fla. This bill would eliminate the remaining surcharge.

Pursuant to s. 561.121(5), F.S., a percentage of the surcharge collections is transferred to the Children and Adolescents Substance Abuse Trust Fund for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents. In FY 1998-99, the percentage of the surcharge transferred was 9.8%, and $10,173,395 was transferred from surcharge collections to the Trust Fund. As the surcharge rates were decreased, resulting in a decrease in surcharge collections, the percentage of collections which was to be transferred to the trust fund was increased. In FY 1999-00, the percentage was 13.6%, and $10,167,930 was transferred. For FY 2000-01, the percentage is 27.2%, and the estimated amount of the transfer is $11,300,000. Under this bill, the FY 1998-99 funding level is preserved by providing for an annual transfer of $10 million to the trust fund. The source of this funding is collections of excise taxes on alcoholic beverages pursuant to ss. 563.05 (beer), 564.06 (wine), and 565.12 (liquor), F.S.

These changes are summarized below.

Fiscal Year	1998-99	1999-00	2000-01	2001-02*
Surcharge	$110,400,000	$87,400,000	$44,500,000	$0
Transfer	$10,173,395	$10,167,930	$11,300,000	$10,000,000
Percentage	9.8%	13.6%	27.2%	Flat rate

* Although there will be no collections from surcharges coming due after July 1, 2001, there will be collections of surcharge amounts which became due in prior years, as is discussed below in Government Sector Impact.

B. Private Sector Impact:

Vendors selling alcoholic beverages for consumption on the premises will no longer be required to collect and remit the surcharge or to keep records and accounts thereof.

C. Government Sector Impact:

According to the Division of Alcoholic Beverage and Tobacco, when the surcharge is repealed, the Division will have to conduct closeout audits and collection functions to assure all surcharges due the state have been submitted. Based upon the 20,000 consumption-on-premise retailers subject to the surcharge, it is estimated that it will take the current staff of 14 surcharge auditors approximately 7 to 10 years to perform complete and thorough audits on all of these licensees.

The Division's Bureau of Auditing currently has a total of 52 tax auditor positions cross-trained to perform audits on all types of tax categories within the Division's regulation. In light of the urgent need to perform these closeout audits within a 3-year period, the Division will shift some of the auditing resources from wholesale audit to surcharge audit functions. In addition, a modified audit process will be implemented which utilizes sampling and estimating techniques. The audit will entail comparing sales data provided by the distributors (wholesale level) to the reported purchases and sales of the retailers.

Surcharge audits currently performed average approximately 2,000 per year, with a general average collection of $1,000 per audit. To complete closeout audits on all 20,000 licensees within a 3-year period, approximately 6,400 audits will be required each year. The estimated audit collections from these abbreviated audits would be approximately $4,300,000 annually. This is based upon current surcharge collection data, and considering the decreased rates pertaining to 2 of the 3 years within the final audit period. This estimate does not take into consideration possible diminishing returns due to audit priority factors, less stringent audits, and future auditor position vacancies.

Based on current costs figures, the Bureau of Auditing spends an estimated $5.29 per each $100.00 collected for surcharge monthly reports and audits performed. Given the same expense figures as currently utilized for surcharge, and considering only the audit collection figures without monthly report amounts, it is estimated that the closeout audits could generate a cost/benefit ratio of $64.66 per $100.00 collected.

Below is a recap of the surcharge closeout audit activities.

Number of audits to be completed:	20,000
Timeframe in years to complete audits:	3
Number of designated surcharge positions:	34
Audit collections anticipated per year:	$4,300,000
Audit expenses anticipated per year:	$2,780,386
Cost/benefit ratio:	$64.66 per $100.00

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.