

1990

## ALCOHOL SURTAX.

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## Official Title and Summary:

ALCOHOL SURTAX. CONSTITUTIONAL AMENDMENT.  
INITIATIVE STATUTE

- Establishes Alcohol Surtax Fund in State Treasury.
- Imposes surtax of five cents per 12 ounces beer, 5 ounces most wines, 1 ounce distilled spirits.
- Imposes additional per unit floor stock tax.
- Proceeds deposited into Alcohol Surtax Fund.
- Guarantees 1989-90 nonsurtax funding with required annual adjustments, and appropriates Surtax Fund revenues for increased funding for alcohol and drug abuse prevention, treatment and recovery programs (24%); emergency medical care (25%); community mental health programs (15%); child abuse and domestic violence prevention training and victim services (15%); alcohol and drug related law enforcement costs, other programs (21%).

Summary of Legislative Analyst's  
Estimate of Net State and Local Government Fiscal Impact:

- Surtax would increase tax on beer from 4 cents to 57 cents per gallon, most wines from 1 cent to \$1.29 per gallon, and distilled spirits from \$2 to \$8.40 per gallon.
- The surtax would result in additional state revenues of approximately \$360 million in 1990-91 and \$760 million in 1991-92, depending on alcohol sales.
- State General Fund revenues could increase or decrease several million dollars due to effect on sales tax revenues and revenues from existing alcoholic beverage taxes.
- Local sales tax revenue would increase by several million dollars.
- The guarantee for 1989-90 level nonsurtax funding, with required annual adjustments, for various health, mental health, criminal justice and other programs could increase costs by \$180 million in 1990-91 and over \$300 million in 1991-92; possibly additional tens of millions of dollars in subsequent years.
- These costs would have to be funded from revenues other than surtax.
- Expenditure of surtax revenues for prevention and treatment programs could result in future savings.

## Analysis by the Legislative Analyst

## Background

Currently, the state taxes alcoholic beverages at the rate of \$2 per gallon on liquor (distilled spirits), 4 cents per gallon on beer, and 1 cent per gallon on most wines. This year, the state will collect about \$128 million from these taxes. Most of the revenue (76 percent) will come from the tax on liquor. These revenues go into the state's General Fund to pay for education, health, welfare, and other government programs.

## Proposal

This measure has four major parts:

- *Alcohol Surtax.* It imposes a surtax—a tax collected in addition to the existing state alcohol tax—on beer, wine, and liquor.
- *Requirements for Spending the Surtax Revenues.* It creates the Alcohol Surtax Fund into which all surtax revenues would be deposited. It also specifies how this money would be spent.
- *Guaranteed Funding Level for Existing State Programs.* In addition to specifying how the new revenues from the surtax would be spent, the measure establishes a guaranteed funding level for certain existing state programs. Specifically, it requires the state to keep the funding for a broad

variety of health, mental health, law enforcement, social services, and drug and alcohol abuse prevention and treatment programs at their 1989-90 funding levels plus annual adjustments for population and cost increases.

- *Conflict With Another Measure on This Ballot.* It contains language stating how a conflict with another measure on this ballot is to be resolved.

*Alcohol Surtaxes.* This measure adds surtaxes to the existing state tax on beer, wine, and liquor beginning January 1, 1991. The new surtaxes would increase the state tax on beer from 4 cents to 57 cents per gallon, the tax for most wines would increase from 1 cent to \$1.29 per gallon, and the tax on liquor would increase from \$2 to \$8.40 per gallon. As a result, taxes would go up by 30 cents on a six-pack of beer, by 25 cents on a bottle (750 milliliters) of most wines, and by \$1.27 on a bottle (750 milliliters) of liquor.

*How Surtax Revenues Will be Spent.* The measure requires the state to spend the revenues from the surtax for the following purposes:

- *Alcohol and Drug Abuse Prevention and Treatment.* Twenty-four percent of the revenues would be used for alcohol and drug abuse prevention and treatment services.

- *Emergency Medical and Trauma Care Treatment.* Twenty-five percent of the revenues would be used for emergency medical and trauma care treatment.
- *Mental Health.* Fifteen percent of the revenues would be used for locally implemented community mental health programs.
- *Various Health and Social Services.* Fifteen percent of the revenues would be used for prevention, treatment, and health services for certain women, children, and disabled persons.
- *Law Enforcement-Related Programs.* Twenty-one percent of the revenues would be used for various enforcement programs and a statewide emergency medical air transportation network.

The measure requires that the surtax revenues only be used to increase the level of services for these programs above those paid for by the state in 1989-90. The Legislature and the Governor would have to specify how the revenues would be divided among the specific programs within each of the general categories described above.

*Guaranteed Funding Level for Existing State Programs.* The measure requires the state to keep funding for the five program areas described above at the 1989-90 level with annual adjustments for population and cost increases. The state could not use revenues from the surtax to pay for these guaranteed funding levels; instead, it would have to use other state money. In 1989-90, the state spent more than \$2 billion on these programs. As a result of the guarantee provided in this measure, the state would be required to spend at least this amount in the future, plus additional amounts to cover population and cost increases.

*Conflict With Another Measure on This Ballot.* Proposition 136 (the Taxpayers' Right to Vote Act of 1990), also on this ballot, imposes new voter

approval requirements for new or increased special taxes enacted through the initiative process. Proposition 136 also requires that any special taxes imposed on personal property be imposed on the *value* of the property. This measure (Proposition 134) states that it would not be affected by the section of the State Constitution to which these new requirements would be added.

#### Fiscal Effect

*Revenue From the New Surtaxes.* The alcohol surtaxes imposed by this measure would result in additional state revenues of approximately \$360 million in 1990-91 (part year) and \$760 million in 1991-92 (first full year). The amount of surtax revenues after 1991-92 would depend on trends in alcohol sales. All of the revenues raised by the measure would be used to increase services in the areas described above.

*Effects on Revenue From Existing Taxes.* This measure also could increase or decrease state General Fund revenues by several million dollars each year, due to its effects on sales tax revenues and revenues from the existing alcoholic beverage taxes. Local sales tax revenues would increase by several million dollars statewide.

*Costs of the Guaranteed Funding Level.* The requirement to keep spending for a variety of health, mental health, criminal justice, and other programs at their 1989-90 level, plus adjustments for population and cost increases could initially raise state costs by about \$180 million in 1990-91 and by over \$300 million in 1991-92. This latter amount could grow by tens of millions of dollars in each subsequent year. These costs would be funded by regular (nonsurtax) state revenues.

*Impact on Program Expenditures.* Spending the surtax revenues on prevention and treatment programs could result in future state and local savings in various governmental programs.

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For text of Proposition 134 see page 119

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## Argument in Favor of Proposition 134

PROPOSITION 134 IS THE "NICKEL-A-DRINK" ALCOHOL TAX INITIATIVE.

Proposition 134 increases the excise tax on alcohol equal to a "nickel-a-drink" and invests the proceeds to fight alcohol related problems. Specifically, Proposition 134 earmarks the revenues from the "Nickel-a-Drink" Alcohol Tax Initiative for:

- Alcohol and drug abuse education.
- Enforcement of drunk driving, and other alcohol and drug related, laws.
- Emergency and trauma care treatment.
- Alcohol and drug abuse prevention and recovery programs.
- Community mental health programs.
- Programs for innocent victims of alcohol abuse, including spousal and child abuse victims.
- Programs for infants with birth defects caused by drinking and drug use during pregnancy.

The idea for a nickel-a-drink "user fee" originated with former Surgeon General C. Everett Koop who said: "Who could quarrel with a nickel-a-drink user fee. . . . to help save lives."

Who quarrels with a nickel-a-drink user fee? THE LIQUOR INDUSTRY! The liquor industry's motive for opposing Proposition 134 is twofold: preserve its profits AND the nation's lowest overall tax on alcoholic beverages.

You should vote YES on Proposition 134 because:

- Alcohol costs California taxpayers over \$13 billion annually.
- Alcohol is the leading cause of death among teenagers.
- California's emergency medical care system is near collapse, largely because of alcohol related accidents and injuries.
- About 68% of alcohol is consumed by only 11% of the people.
- Approximately 33% of all mentally ill and homeless persons also have alcohol and drug problems.
- California has the lowest alcohol taxes in the nation. For instance, the tax on wine has been 1¢ per gallon since 1937; it has not changed for 53 years.

BEFORE VOTING ON PROPOSITION 134, ASK YOURSELF THIS SIMPLE QUESTION:

WHOM DO YOU TRUST?:

The liquor industry or the supporters of Proposition 134, which include:

CALIFORNIA CHAPTERS, MOTHERS AGAINST DRUNK DRIVING (MADD)

THE CALIFORNIA ASSOCIATION OF HIGHWAY PATROLMEN  
THE CALIFORNIA COUNCIL ON ALCOHOL PROBLEMS  
THE CALIFORNIA COUNCIL OF CHURCHES  
THE CALIFORNIA CONSORTIUM FOR THE PREVENTION OF CHILD ABUSE  
THE AMERICAN COLLEGE OF EMERGENCY PHYSICIANS—CALIFORNIA CHAPTER  
THE CALIFORNIA PEACE OFFICERS' ASSOCIATION  
THE CALIFORNIA POLICE CHIEFS ASSOCIATION  
THE CALIFORNIA COUNCIL OF COMMUNITY MENTAL HEALTH AGENCIES  
THE CALIFORNIA COUNCIL ON CHILDREN AND YOUTH

For the vast majority of the Californians, who drink moderately or not at all, *the "nickel-a-drink" tax will cost less than 35 cents a week.* Proposition 134 targets the heavy drinkers—the drunk drivers and alcohol abusers who cause most of the deaths and injuries attributable to alcohol. Proposition 134 will provide \$760 million annually for programs that address alcohol related problems in California.

PLEASE REMEMBER ALSO TO VOTE NO ON PROPOSITIONS 126 AND 136. *Both are sponsored by the liquor industry as part of its campaign to defeat Proposition 134.*

VOTE YES ON PROPOSITION 134, THE "NICKEL-A-DRINK" ALCOHOL TAX INITIATIVE.

DR. DONALD M. BOWMAN  
*Executive Director,  
California Council on Alcohol Problems*

MICHAEL P. TRAINOR, M.D.  
*President, American College of Emergency Physicians,  
State Chapter of California*

THOMAS A. NOBLE  
*President, California Association of Highway Patrolmen*

## Rebuttal to Argument in Favor of Proposition 134

IT'S NOT WHAT IT CLAIMS!

Proposition 134 is not just a "nickel" alcohol tax, it requires spending more than it raises.

EVERYONE PAYS

- Proposition 134's author testified that *automatic budget increases* could be \$50 to \$100 million annually.
- The Legislative Analyst says Proposition 134 could spend *tens to hundreds of millions of dollars* more than it raises each year.
- A Senate Committee reports *mandated spending could be \$2 billion more* than provided by alcohol taxes within a few years.

THIS SHORTFALL MUST BE PAID BY THE GENERAL FUND—BY YOUR INCOME AND SALES TAXES. Up to \$200 per family yearly plus any alcohol surtaxes you pay.

FALSE PROMISES—MISPLACED PRIORITIES

Proposition 134 fails to deliver on the promoters' promises. The guaranteed spending plan misses the mark:

- California Teachers Association *opposes* Proposition 134 because no money is directed to public schools for alcohol abuse programs.
- Less than half the spending goes to alcohol abuse programs. Proposition 134 *spends nearly as much on litter control as on abuse prevention communications.*

- Police and firefighters oppose Proposition 134 because *three times more goes to private physician subsidies than to drunk driving enforcement.*

BAD GOVERNMENT

Proposition 134 requires *automatic spending increases* annually, above the alcohol tax.

There is *no annual review* or oversight to ensure spending increases are needed.

Wasteful or unneeded programs *cannot be cut* by the Legislature or Governor.

It *never expires*, so spending hikes increase forever.

Proposition 134 is a bad law all of us will pay for. Vote "NO" on 134.

MARC KERN, Ph.D.  
*Addiction Alternatives Research & Treatment Center*

ROBERT B. HAMILTON  
*President, California State Fireman's Assn.*

DANA W. REED  
*Former Director, Calif. Dept. of Traffic Safety*

# Alcohol Surtax. Constitutional Amendment. Initiative Statute

# 134

## Argument Against Proposition 134

VOTE NO on Proposition 134. *This is not just an alcohol tax.*

Despite its claims, Proposition 134:

- Locks in spending of \$1.9 billion in its first year (\$1.2 billion in current general fund monies, plus new alcohol taxes of \$730 million) and DICTATES ANNUAL BUDGET INCREASES that we all pay.
- Threatens tax increases—for all taxpayers—to fund annual budget increases (the only alternative is to cut important state programs).
- Directs no monies to public schools for prevention programs.
- Spends most funds on programs not related to alcohol or drug problems.

### SPENDING EXCEEDS ALCOHOL TAX

Proposition 134 penalizes all Californians—not just drinkers—by SPENDING FAR MORE THAN THE TAX RAISES. It locks in \$1.2 billion in current state spending—then requires annual budget increases—which all taxpayers must pay for.

These budget increases are tied to California's explosive population growth. (Read Section 32240, Proposition 134 per-capita spending level "escalator clause".)

Proposition 134 could eventually spend five times more than it raises. We will pay either through income or other tax increases or through reductions in vital state programs. *Proposition 134 specifically states NONE OF THESE MANDATORY SPENDING INCREASES CAN BE PAID BY THE ALCOHOL SURTAX.*

### THREATENS IMPORTANT SERVICES

Proposition 134 threatens funds for programs like senior citizen nutrition, child welfare, safe food and agriculture, prisons, conservation and fire protection by creating new demands on the General Fund. The Legislative Analyst estimates these *INCREASES COULD COST \$480 MILLION IN THE NEXT TWO YEARS.*

### OTHER TAX INCREASES

State income or sales taxes may be required because Proposition 134 *costs millions more than it raises.*

A Senate Budget Committee investigation found deficits could reach

\$2 billion—equal to a \$200 income tax for every California family—on top of the alcohol tax.

### SCHOOLS GET NOTHING

Proposition 134 deprives California public schools of any right to Alcohol Surtax funds.

The best answer to alcohol abuse and illegal drug use is prevention education. Yet Proposition 134 *gives nothing to schools for prevention.*

### NO FUNDS FOR ALCOHOL AND DRUG DEPARTMENT

Less than half of Proposition 134 spending actually goes to fight illegal drug use or alcohol abuse.

Proposition 134 scatters funds to a dozen programs, but not one cent goes to California's Department of Alcohol and Drug Programs. Only 3 percent of its \$730 million tax goes to fight drunk driving, the program that should be the Number One public safety priority in our state.

### BLANK CHECK FOR WASTE

Even if you like higher alcohol taxes, consider that Proposition 134:

- Mandates *higher government spending every year*, whether programs work or not, whether money is needed or not.
- Requires annual increases *even if fraud, waste or abuse are proven.*
- Prohibits the Governor and Legislature from cutting these budgets, even for disasters or financial crises.
- *Exempts several hundreds of millions of dollars of government spending from the state's constitutional spending limit.*
- Has *no expiration date*, so spending increases continue forever.

We urge you to vote NO on Proposition 134. It creates many more problems than it solves.

**FRANK M. JORDAN**

*Police Chief, City and County of San Francisco*

**LARRY MCCARTHY**

*President, California Taxpayers Association*

**HERBERT E. SALINGER**

*Former Executive Director, California School Boards Association*

## Rebuttal to Argument Against Proposition 134

The opponent of the "Nickel-A-Drink" Initiative is the liquor lobby. They are spending more than \$20 million trying to confuse voters with misleading information.

The liquor lobby says: "Schools get nothing."

Fact: Proposition 134 provides over \$40 million annually for alcohol abuse programs in public schools *and* in the community.

Liquor lobby: "Spending exceeds alcohol tax."

Fact: Proposition 134 *supplements* current funding for alcohol-related programs and services. A "safety clause" in Prop. 134 guarantees that politicians will *not* be allowed to cut back on current funding for alcohol-related programs and services when the Nickel-A-Drink funds become available. This "safety clause" is what the liquor lobby is calling the "escalator clause." Prop. 134 does not increase other taxes. Instead, \$760 million in alcohol taxes will be *added revenue* for our cities, counties and state alcohol-related programs and services.

Liquor lobby: "Only 3% goes to fight drunk driving."

Fact: Prop. 134 will provide up to \$129 million for the enforcement of drunk driving laws.

Liquor lobby: "No funds for alcohol and drug department."

Fact: Every nickel of the Nickel-A-Drink tax will be spent for *alcohol related* services and programs; services like child abuse programs, alcohol abuse education in public schools, and programs for the victims of drunk drivers.

By paying a nickel-a-drink more, people who drink alcohol can contribute to covering the costs related to their behavior. We think that's fair and respectfully urge you to vote yes on Proposition 134.

**HARRY SNYDER**

*West Coast Director, Consumers Union, U.S., Inc. Publisher of Consumer Reports*

**RIC LOYA**

*Exec. Director, CA Assoc. of School Health Educators*

**JACQUELINE MASSO**

*Santa Clara County Chapter of Mothers Against Drunk Driving (MADD)*

percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3 1/4 percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4 1/4 percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3 1/4 percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4 1/4 percent on and including June 30, 1991, and at the rate of 5 1/4 percent on and after July 1, 1991, and to and including June 30, 1995, and at the rate of 4 1/4 percent thereafter.

SEC. 7. Section 7102 of the Revenue and Taxation Code is amended to read: 7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, and pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the 4 1/4 percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(2) All revenues, less refunds, derived under this part at the 4 1/4 percent rate, resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the 4 1/4 percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from a rate of more than 4 1/4 percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(5) All revenues, less refunds, derived under this part from a rate of more than 4 1/4 percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of tangible personal property other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(6) All revenues, less refunds, derived under this part from a rate of more than 4 1/4 percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(7) (A) During the period commencing July 1, 1991, and ending June 30, 1995, all revenues, less refunds and revenues subject to Article XIX of the State Constitution, derived under this part in excess of the 4 1/4-percent rate, as estimated by the board, shall, with the concurrence of the Department of Finance, be transferred to the Safe Streets Fund.

(B) The estimate required by subparagraph (A) shall be based on taxable transactions occurring during a calendar year.

(C) Transfers to the Safe Streets Fund shall be made quarterly.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be made quarterly.

(d) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

(e) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a statute, passed by a two-thirds vote, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 8. Section 7102 is added to the Revenue and Taxation Code, to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, and pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the 4 1/4-percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(2) All revenues, less refunds, derived under this part at the 4 1/4-percent rate, resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the 4 1/4-percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be made quarterly.

(d) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

(e) This section shall become operative January 1, 1996.

SEC. 9. The provisions of this act may be amended by statute, which is passed by the Legislature with a two-thirds vote in each house, so long as the amendments are consistent with the purposes of this act as expressed on the date of adoption by the voters.

SEC. 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

## Proposition 134: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding sections thereto, and adds a chapter to the Revenue and Taxation Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### THE ALCOHOL TAX ACT OF 1990

SECTION 1. This measure shall be known and may be cited as the Alcohol Tax Act of 1990.

SECTION 2. The people find and declare as follows:

(a) Alcohol use drains California of approximately \$13.6 billion annually in increased health care costs, higher crime rates, lost productivity, environmental damage, and injuries from alcohol-related accidents and abuse.

(b) Alcohol-related accidents are the leading cause of death among teenagers and the cause of many permanently disabling injuries.

(c) There is a strong correlation between alcohol and other drug use.

(d) Meeting the need and demand for alcohol and other drug treatment and recovery programs is an increasingly expensive burden to all California taxpayers.

(e) The use of alcohol and other drugs is a major cause of hospital emergency room and trauma care treatment, and therefore greatly contributes to the need for emergency medical air-transportation services.

(f) The use of alcohol and other drugs is closely associated with mental illness and contributes enormously to the cost of treating the mentally ill.

(g) The use of alcohol and other drugs contributes significantly to vandalism,

litter, and unruly and criminal behavior in California's parks and recreation facilities.

(h) The use of alcohol and other drugs is a major factor in the majority of child and spousal abuse cases, and is also frequently associated with abuse of elderly, mentally-ill and mentally-retarded residents of long-term care facilities.

(i) Alcohol use during pregnancy causes approximately 5,000 children to be born in California each year with alcohol-related birth defects; and other drug use during pregnancy, especially cocaine, affects thousands of babies born each year.

(j) Drinking and driving, and driving under the influence of other drugs, is the major cause of traffic accidents and fatalities in California each year.

(k) Alcohol and other drug-related crimes are an increasing burden to law enforcement and the criminal justice system in California.

(l) While the staggering cost of alcohol abuse is borne by all Californians, 67 percent of the alcohol is consumed by only 11 percent of the population.

(m) An increase in the excise tax levied on alcoholic beverages equivalent to a five cents (\$0.05) per drink is a fair and appropriate way to reduce alcohol's staggering burden on all California taxpayers.

SECTION 3. Section 7 is added to Article XIII A of the Constitution, to read: SECTION 7. Section 3 does not apply to the Alcohol Tax of 1990.

SECTION 4. Section 13 is added to Article XIII B of the Constitution, to read:

SECTION 13. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Alcohol Surtax Fund created by the Alcohol Tax Act of 1990. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Alcohol Surtax Fund created by the Alcohol Tax Act of 1990.

SECTION 5. Chapter 5.5 commencing with Section 32220 is added to Part 14 of Division 2 of the Revenue and Taxation Code, to read:

## Article 1. Definitions

Section 32220. For purposes of this chapter:

- (a) "Fund" means the Alcohol Surtax Fund created by Section 32221.
- (b) "Unit" means the appropriate measure of any of the following:
  - (1) Twelve ounces of beer.
  - (2) Five ounces of all wine, except those in subdivision (3).
  - (3) Three ounces of fortified wine.
  - (4) One ounce of distilled spirits.
- (c) "Fortified wine" means any wine which (i) contains alcohol in an amount equal to or more than 14 percent by volume when bottled or packaged by the manufacturer, (ii) is not both sealed and capped by cork closure, and aged two or more years, (iii) does not contain 14 or more percent of alcohol by volume solely as a result of the natural fermentation process, and (iv) has been produced with the addition of wine spirits, brandy, or alcohol.
- (d) "Other drugs" means all addictive or controlled substances other than alcoholic beverages, as defined by Section 23004 of the Business and Professions Code, and cigarettes and tobacco products, as defined in Section 30121 of the Revenue and Taxation Code, as both sections read on January 1, 1990.

## Article 2. Alcohol Surtax Fund

Section 32221. The Alcohol Surtax Fund is hereby created in the State Treasury. The fund shall consist of all revenues raised pursuant to the taxes imposed by this chapter, and all interest and penalties imposed thereon pursuant to this part. Earnings derived from investment of moneys in the fund shall accrue to the fund. Notwithstanding Section 13340 of the Government Code, moneys in the fund shall be continuously appropriated, without regard to fiscal year, for the purposes of this chapter.

Section 32222. The fund consists of five separate accounts, as follows:

- (a) The Prevention, Treatment and Recovery Account, funds from which shall only be expended for the following:
  - (1) Prevention of alcohol and other drug problems.
  - (2) Treatment and recovery services for alcohol and other drug problems.
  - (3) A coordinated statewide and local training, public policy and public awareness program to prevent alcohol and other drug problems, and to inform the public, particularly children and teenagers, of the potential health risks of alcohol and other drug use.
  - (4) Capital expenditures (including accessibility improvements for the disabled) for housing, treatment and recovery facilities, domestic violence shelters, and homeless and low-income facilities for persons recovering from alcohol- and other drug-related problems.
- (b) The Emergency and Trauma Care Account, funds from which shall only be expended for the following:
  - (1) Emergency medical and trauma care treatment and all related services.
  - (2) Emergency medical and trauma care services, up to the time the patient is stabilized, provided by physicians in general acute care hospitals that provide basic or comprehensive emergency services.
- (c) The Mental Health Account, funds from which shall only be expended for locally-implemented community mental health programs.
- (d) The Infants, Children and Innocent Victims Account, funds from which shall only be expended for the following:
  - (1) Prevention, treatment, and care regarding the health needs of infants, children and women due to perinatal alcohol and other drug use.
  - (2) Prevention, treatment, and care regarding child abuse and child abuse victims.
  - (3) Shelter, support services, and prevention programs whose primary purpose is to serve battered women and their children.
  - (4) Training, education, public policy, research, and related support services for persons with disabilities.
- (e) The Law Enforcement Account, funds from which shall only be expended for the following:
  - (1) Enforcement of laws prohibiting driving under the influence of an alcoholic beverage or any other drug, or the combined influence of an alcoholic beverage and any other drug, and related criminal justice and penal system costs and services.
  - (2) Enforcement of alcohol- and other drug-related laws, and related criminal justice and penal system costs and services.
  - (3) Recreation and park programs and projects that address alcohol and other drug impacts on public parks and facilities, including impacts on public safety, litter, vandalism, youth-at-risk, and other prevention and diversion activities.
  - (4) Operation and administration of a statewide emergency medical air-transportation network.
  - (5) Enforcement, education, and training relative to laws prohibiting driving under the influence of an alcoholic beverage or any other drug, or the combined influence of an alcoholic beverage and any other drug.

## Article 3. Imposition of the Surtax on Beer, Wine and Distilled Spirits

Section 32225. A surtax at the rate of five cents (\$0.05) per unit, and at a proportionate rate for any other quantity, is imposed upon every unit of beer and wine sold in this state or sold pursuant to Section 23384 of the Business and Professions Code, by a manufacturer, wine grower, or importer, or seller of beer or wine selling beer or wine with respect to which no tax has been paid within areas over which the United States Government exercises jurisdiction.

Section 32226. A surtax at the rate of five cents (\$0.05) per unit, and at a proportionate rate for any other quantity, is imposed upon every unit of distilled spirits sold in this state or sold pursuant to Section 23384 of the Business and Professions Code, by a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, and wholesaler, or seller of distilled spirits selling distilled spirits with respect to which no tax has been paid within areas over which the United States Government exercises jurisdiction.

Section 32227. Except with respect to beer and wine in the internal revenue

bonded premises of a beer manufacturer or wine grower, and except with respect to those distilled spirits in possession or control of a distilled spirits taxpayer as defined by Section 23010 of the Business and Professions Code, upon which the taxes imposed by Section 32226 have not been paid, a floor stock tax of five cents (\$0.05) is hereby imposed on every unit of beer, wine and distilled spirits in the possession or under the control of every person licensed under Division 5 (commencing with Section 23000) of the Business and Professions Code on or after 2:01 a.m. on January 1, 1991, pursuant to rules and regulations promulgated by the State Board of Equalization. This floor stock tax shall be due and payable on February 15, 1991.

Section 32228. The taxes imposed by this article shall be imposed in addition to any other tax imposed upon beer, wine or distilled spirits by this part, and shall be in addition to any other tax imposed upon beer, wine or distilled spirits by the voters at the November 6, 1990, election.

Section 32229. All the provisions of this part, with the exception of those contained in Chapter 10 (commencing with Section 32501), relating to excise taxes, are applicable also to the taxes imposed by this Article, to the extent that they are not inconsistent with this Article.

## Article 4. Disposition of the Alcohol Surtax Fund

Section 32230. (a) With the exception of payments of refunds made pursuant to Chapter 8 (commencing with Section 32401), and, as determined by the Department of Finance, reimbursement of the State Board of Equalization for expenses incurred in the administration, enforcement, and collection of the taxes imposed by Article 3 (commencing with Section 32225), pursuant to its powers vested by this part, and reimbursement of the Controller for expenses incurred in the administration of the fund, all moneys in the fund shall be allocated as provided in subdivision (b).

(b) Moneys in the fund shall be allocated according to the following formula:

- (1) Twenty-four percent shall be deposited in the Prevention, Treatment and Recovery Account, which is to be further allocated for the purposes specified in subdivision (a) of Section 32222 as follows:
    - (A) Four percent for the purposes of paragraph (1).
    - (B) Thirteen percent for the purposes of paragraph (2).
    - (C) Two percent for the purposes of paragraph (3).
    - (D) Five percent for the purposes of paragraph (4).
  - (2) Twenty-five percent shall be deposited in the Emergency and Trauma Care Account, which is to be further allocated for the purposes specified in subdivision (b) of Section 32222 as follows:
    - (A) Seventeen percent for the purposes of paragraph (1).
    - (B) Eight percent for the purposes of paragraph (2).
    - (3) Fifteen percent shall be deposited in the Mental Health Account, which is to be allocated for purposes specified in subdivision (c) of Section 32222.
    - (4) Fifteen percent shall be deposited in the Infants, Children and Innocent Victims Account, which is to be further allocated for the purposes specified in subdivision (d) of Section 32222 as follows:
      - (A) Six percent for the purposes of paragraph (1).
      - (B) Four percent for the purposes of paragraph (2).
      - (C) Three percent for the purposes of paragraph (3).
      - (D) Two percent for the purposes of paragraph (4).
    - (5) Twenty-one percent shall be deposited in the Law Enforcement Account, which is to be further allocated for the purposes specified in subdivision (e) of Section 32222 as follows:
      - (A) Two percent for the purposes of paragraph (1).
      - (B) Fourteen percent for the purposes of paragraph (2).
      - (C) Two percent for the purposes of paragraph (3).
      - (D) Two percent for the purposes of paragraph (4).
      - (E) One percent for the purposes of paragraph (5).
  - (c) Any amount allocated from any account specified in subdivision (b) which is not expended within one year shall revert to the account from which it was appropriated.
  - (d) The percentages stated in subdivision (b) are stated as a percentage of the moneys deposited in the fund and not as a percentage of the moneys deposited in each account.
- Section 32231. (a) Moneys appropriated pursuant to Section 32221 and allocated pursuant to Section 32230 shall be allocated for expenditure for the purposes specified in Section 32222 as follows:
- (1) For all the purposes specified in paragraphs (1), (2), and (4) of subdivision (a); subdivision (b); and paragraphs (1), (2), and (3) of subdivision (d) of Section 32222, collectively, to counties pursuant to the following formula:
    - (i) One hundred and fifty thousand dollars (\$150,000) to each county annually.
    - (ii) The remaining funds apportioned based on each county's proportionate share of population.
  - (2) For purposes specified in paragraph (3) of subdivision (a) of Section 32222, to the Department of Health Services.
  - (3) For purposes specified in paragraph (4) of subdivision (d) of Section 32222, to the Department of Rehabilitation.
  - (4) For purposes specified in paragraphs (1) and (2) of subdivision (e) of Section 32222, 50 percent to counties based on each county's proportionate share of population and 50 percent to cities based on each city's proportionate share of the population.
  - (5) For purposes specified in paragraph (3) of subdivision (e) of Section 32222, to cities, counties and districts as defined in the Community Parklands Act of 1986 (Chapter 3.7 (commencing with Section 5700) of Division 5 of the Public Resources Code) pursuant to the distribution formula specified in Section 5720 of the Public Resources Code, except there shall not be the minimum allocations specified in subdivision (b) and paragraph (1) of subdivision (c) of that section.
  - (6) For purposes specified in paragraphs (4) and (5) of subdivision (e) of Section 32222, to the California Highway Patrol.

(b) Moneys allocated pursuant to subdivision (a) shall be disbursed as follows:

- (1) Paragraph (1), monthly.
- (2) Paragraphs (2), (3), (4), and (6), quarterly.
- (3) Paragraph (5), annually on the first day of each fiscal year.

(c) Moneys allocated in subdivision (a) based on population shall be allocated based on the most recent Department of Finance population estimates.

Section 32232. (a) Funds allocated for the purposes specified in paragraphs (2), and (4) of subdivision (a) of Section 32222 shall be expended by counties pursuant to each county's final approval of separate alcohol and other drug program plans prepared in accordance with the provisions of Section 11810.5 and paragraphs (1) to (4), inclusive, of subdivision (a) of Section 11810.6 of, and paragraphs (1) to (4), inclusive, of subdivision (a) of Section 11983.2 of the Health and Safety Code, and any other provisions as determined by each county. Each county's final approved plans shall be submitted to the Department of Alcohol and Drug Programs for information purposes only.

(b) Funds allocated for the purposes specified in paragraphs (1) and (2) of subdivision (a) of Section 32222 shall be expended 70 percent for purposes related to alcohol and 30 percent for purposes related to other drugs.

(c) Funds allocated for the purposes specified in paragraph (2) of subdivision (a) of, and subdivisions (b), (c) and (d) of Section 32222 shall only be expended for payment of services to persons who cannot afford to pay for the services, and for whom payment for the services will not be made through private coverage or by any program funded in whole or in part by the federal government.

(d) Of the funds allocated for the purposes specified in paragraph (3) of subdivision (a) of Section 32222, at least 50 percent shall be expended for a mass media program that both informs the public of the potential health risks of alcohol use and counteracts alcoholic beverage marketing messages.

(e) Funds allocated for the purposes specified in paragraph (1) of subdivision (b) of Section 32222 shall be expended by counties for the provision of emergency (as defined by Section 1797.70 of the Health and Safety Code) and trauma (as defined by Section 100240 of Title 22 of the California Code of Regulations) care and all related services pursuant to Sections 17000, 17001 and 17003 of the Welfare and Institutions Code.

(f) Funds allocated for the purposes specified in paragraph (2) of subdivision (b) of Section 32222 shall be disbursed by counties to physicians, as defined in Section 1797.98a of the Health and Safety Code as that section read on January 1, 1990, for emergency and trauma care services rendered, and shall be in addition to and shall not supplant levels of funding provided by Articles 3 (commencing with Section 16950) and 3.5 (commencing with Section 16951) of Chapter 5 of Part 4.7 of Division 9 of the Welfare and Institutions Code and the Emergency Medical Services Fund (Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code) for the 1989-90 fiscal year. Funds shall be disbursed at least quarterly on an equitable basis.

(g) Funds allocated for the purposes specified in subdivision (c) of Section 32222 shall be expended pursuant to mental health programs contained in Chapters 5 (commencing with Section 5450), 6 (commencing with Section 5475), and 6.8 (commencing with Section 5565.10) of Part 1, Part 2 (commencing with Section 5600), and Part 3 (commencing with Section 5800) of Division 5 of the Welfare and Institutions Code, as follows:

- (1) Fifty percent for seriously mentally-ill adults.
- (2) Thirty percent for emotionally-disturbed children and adolescents.
- (3) Twenty percent for mentally-ill older adults.

The Department of Mental Health shall annually prepare recommendations to the Legislature on the expenditure of these funds upon review of local Short-Doyle plans or negotiated net amount contracts, as defined in Section 5705.2 of the Welfare and Institutions Code. These funds shall be used exclusively to reform and improve the support and treatment systems for the seriously mentally ill in all counties.

(h) Funds allocated for the purposes specified in paragraph (1) of subdivision (d) of Section 32222 shall be expended by counties pursuant to the authority specified in subdivisions (d) and (i) of Section 1276 of Title 17 of the California Code of Regulations.

(i) Funds allocated for the purposes specified in paragraph (2) of subdivision (d) of Section 32222 shall be expended by counties for programs described in Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(j) Funds allocated for the purposes specified in paragraph (3) of subdivision (d) of Section 32222 shall be expended by counties for programs described in The Domestic Violence Centers Act (Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code).

(k) Funds allocated for the purposes specified in paragraph (4) of subdivision (d) of Section 32222 shall be expended by independent living centers as defined in Section 19801 of the Welfare and Institutions Code.

(l) Funds allocated for the purposes specified in paragraph (2) of subdivision (e) of Section 32222 may be expended by counties and cities for Long Term Care Ombudsman services, as defined in Article 3 (commencing with Section 9720) of Chapter 9 of Division 8.5 of Part 1 of the Welfare and Institutions Code, in long term care facilities, as defined in subdivision (a) of Section 9701 Welfare and Institutions Code.

(m) Funds allocated for the purposes specified in paragraph (4) of subdivision (e) of Section 32222 shall be expended for an emergency medical air-transportation system crewed by personnel of the California Highway Patrol, as defined in subdivision (a) of Section 830.2 of the Penal Code.

#### Article 5. General Provisions

Section 32240. Expenditures pursuant to this chapter shall be used only for the purposes specified in this chapter, shall supplement 1989-90 state funding and per capita levels of service, and shall not replace existing state funding nor fund future state expenditures for increases in the cost of providing existing per capita levels of service. Existing state funding and per capita levels of service for purposes specified in this chapter shall not be reduced.

Section 32241. This chapter shall take effect on January 1, 1991.

Section 32242. This chapter shall be amended only by the four-fifths vote of the membership of both houses of the Legislature. All amendments to this chapter must be consistent with its purposes.

SECTION 6. If any section of this measure, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect.

### Proposition 135: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends, repeals, and adds sections to the Food and Agricultural Code and the Health and Safety Code, and amends a section of the Labor Code, and adds sections to the Government Code, the Public Resources Code, the Vehicle Code, and the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED LAW

##### SECTION 1. Title

This Act shall be known as the Consumer Pesticide Enforcement Act for Food, Water, and Worker Safety.

##### SECTION 2. Findings and Declarations

The people of California find and declare that:

(a) The people of California and the United States have a right to the purchase and consumption of safe food.

(b) People who work in the production of food have a right to a safe working environment.

(c) Recent events have heightened the public's awareness of food safety and led to a desire for additional regulatory practices to provide greater consumer and worker protection.

(d) Dietary risk exposure may be augmented by occupational exposure. To provide adequate safety to those who work in agriculture, we must supplement the dietary protection by a comprehensive workplace protection program.

(e) Pest management is vital to an adequate, safe and wholesome food supply.

(f) There is a need for a new and additional strict analysis of the pesticides used on food crops that present health concerns.

(g) There is a need to provide higher levels of protection to children and other sensitive subpopulations.

(h) There is a need for funding research to find alternatives to pesticides and develop safer pesticides and pest management practices.

(i) Given the risks of certain highly toxic pesticides to both workers and consumers, new regulations are required to make certain that persons dealing with these substances are properly trained in their use.

(j) Because exposure to pesticide residues could also come from consumption of water, as well as food, there is a need to review the water quality objectives for pesticide residue in drinking water sources and monitor the waters of the state to

determine compliance with those water quality objectives.

(k) Nonpoint source discharges containing pesticide residues may affect the quality of waters of the state. Therefore, nonpoint source discharges should be subject to control and regulation through implementation of best management practices.

(A) There should be an updated review of the pesticide regulatory program of the Department of Food and Agriculture by the Secretary of the Resources Agency to determine if the present program provides the adequate protections required by state law.

(m) There is a need to establish an independent scientific advisory panel to assist in the monitoring and evaluation of pesticides and their impact on food safety.

(n) Transportation of food by tank truck is a matter of great concern to the producers and shippers of food and to the consumers. Appropriate safeguards should be taken to minimize the danger of contamination of food transported in tank trucks.

(o) Because the regulation of food, pesticides, agriculture and discharges of pesticide residues to sources of drinking water is a highly complex and technical area involving multiple state agencies, there is a need for a focused and exclusive assignment of coordination in that area so as to effectively coordinate with the environmental programs of agencies with responsibilities in those areas.

(p) Food safety and supply issues are complex and unique. They require the proper balance of public policy, health, economic, and scientific issues and are best addressed as a single subject rather than as part of a general toxic chemical or multi-faceted environmental measure.

##### SECTION 3. Statement of Purpose

The people enact the Consumer Pesticide Enforcement Act for Food, Water, and Worker Safety to make specific reforms to protect the supply of nutritious and wholesome food and the supply of water, and to reform occupational safety laws related to agriculture. To accomplish these reforms the people by this initiative measure create a new Division of Food Safety and Pesticide Regulation which shall double the number of samples taken to monitor pesticide residue, develop improved analytical methods to detect pesticide residues, prohibit the use of unsafe pesticides through a comprehensive review of priority pesticides involving an independent scientific advisory panel review, expand farm worker safety right-to-know and work place protection, conduct research to identify alternative means of pest management and develop alternative safer pesticides. This initiative measure is intended to provide comprehensive and necessary