

*Referred Energy 2/12
to House 3/19
(p. 871)*

Reprinted

FILED MAR 12 1979

SENATE FILE 388

By COMMITTEE ON STATE GOVERNMENT
(approved 3/8 (p. 1-5))

Passed Senate, Date 3-23-79 (p. 927) Passed House, Date _____

Vote: Ayes 43 Nays 1 Vote: Ayes _____ Nays _____

Approved _____

Referred to Revenue 2nd of 928 on 2/3/76

A BILL FOR

1 An Act to regulate the sale and use of certain beverage con-
 2 tainers by prohibiting a manufacturer from requiring a
 3 distributor to pay to a manufacturer a refund value or
 4 deposit on a nonrefillable beverage container; prohibiting
 5 the importation of certain quantities of beverage con-
 6 tainers not having a refund value indication as required
 7 by chapter four hundred fifty-five C (455C) of the Code;
 8 prescribing penalties for violations of departmental rules,
 9 the multiple redemption of nonrefillable beverage containers
 10 by a distributor, and certain acts and practices defined
 11 as fraudulent; authorizing distributors to cooperate and
 12 coordinate their business operations to carry out the
 13 purposes of chapter four hundred fifty-five C (455C) of
 14 the Code; and by authorizing a phaseout for containers not
 15 having a refund value indication for the period from
 16 July 1, 1979 through July 31, 1979.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section four hundred fifty-five C point one
2 (455C.1), Code 1979, is amended by adding the following new
3 subsection:

4 NEW SUBSECTION. "Nonrefillable beverage container" means
5 a beverage container not intended to be refilled for sale
6 by a manufacturer.

7 Sec. 2. Section four hundred fifty-five C point three
8 (455C.3), Code 1979, is amended by adding the following new
9 subsection:

10 NEW SUBSECTION. A distributor shall not be required to
11 pay to a manufacturer a deposit or refund value on a
12 nonrefillable beverage container.

13 Sec. 3. Section four hundred fifty-five C point five
14 (455C.5), subsection two (2), Code 1979, is amended by striking
15 the subsection and inserting in lieu thereof the following:

16 2. A person, except a distributor, shall not import into
17 this state or have possession of a beverage container which
18 does not have securely affixed to the container the refund
19 value indication. The provisions of this subsection do not
20 apply if:

21 a. For beverage containers containing alcoholic liquor
22 as defined in section one hundred twenty-three point three
23 (123.3), subsection eight (8) of the Code, the total capacity
24 of the containers is not more than one quart or, in the case
25 of alcoholic liquor personally obtained outside the United
26 States, one gallon.

27 b. For beverage containers containing beer as defined
28 in section one hundred twenty-three point three (123.3),
29 subsection nine (9) of the Code, the total capacity of the
30 containers is not more than two hundred eighty-eight fluid
31 ounces.

32 c. For all other beverage containers, the total capacity
33 of the containers is not more than five hundred seventy-six
34 fluid ounces.

35 3. The provisions of subsections one (1) and two (2) of

1 this section do not apply to a refillable glass beverage
2 container which has a brand name permanently marked on it
3 and which has a refund value of not less than five cents,
4 to any other refillable beverage container which has a refund
5 value of not less than five cents and which is exempted by
6 the director under rules adopted by the commission, or to
7 a beverage container sold aboard a commercial airliner or
8 passenger train for consumption on the premises.

9 Sec. 4. Section four hundred fifty-five C point twelve
10 (455C.12), Code 1979, is amended to read as follows:

11 455C.12 ~~PENALTY~~ PENALTIES.

12 1. Any person violating the provisions of sections 455C.2,
13 455C.3, 455C.5 and 455C.8, or a rule adopted under this chapter
14 shall be guilty of a simple misdemeanor.

15 2. A distributor who collects or attempts to collect a
16 refund value on an empty beverage container when the
17 distributor has paid the refund value on the container to
18 a dealer, redemption center, or consumer is guilty of a
19 fraudulent practice.

20 3. Any person who does any of the following acts is guilty
21 of a fraudulent practice:

22 a. Collects or attempts to collect the refund value on
23 the container a second time, with the knowledge that the
24 refund value has once been paid by the distributor to a dealer,
25 redemption center or consumer.

26 b. Manufactures, sells, possesses or applies a false or
27 counterfeit label or indication which shows or purports to
28 show a refund value for a beverage container, with intent
29 to use the false or counterfeit label or indication.

30 c. Collects or attempts to collect a refund value on a
31 container with the use of a false or counterfeit label or
32 indication showing a refund value, knowing the label or
33 indication to be false or counterfeit.

34 4. As used in this section, a false or counterfeit label
35 or indication means a label or indication purporting to show

1 a valid refund value which has not been initially applied
2 as authorized by a distributor.

3 5. Subsection two (2) and subsection three (3), paragraph
4 a of this section have no application to empty beverage
5 containers which are intended to be refillable and are in
6 a standard of condition except for sanitization to be
7 refillable by the manufacturer.

8 Sec. 5. Chapter four hundred fifty-five C (455C), Code
9 1979, is amended by adding the following new section:

10 NEW SECTION. DISTRIBUTORS' AGREEMENTS AUTHORIZED. A
11 distributor may enter into a contract or agreement with any
12 other distributor, manufacturer or person for the purpose
13 of collecting or paying the refund value on, or disposing
14 of, beverage containers as provided in this chapter.

15 Sec. 6. Acts of the Sixty-seventh General Assembly, 1978
16 Session, chapter one thousand one hundred sixty-two (1162),
17 section fourteen (14), subsection two (2) is amended to read
18 as follows:

19 2. This Act shall be effective July 1, 1979 for all
20 beverage containers sold in this state except as provided
21 in subsection one (1) of this section. However, from July
22 1, 1979 through July 31, 1979, this Act shall not apply to
23 beverage containers sold in this state by dealers or
24 distributors excluding the Iowa beer and liquor control
25 department, if the beverage containers do not have refund
26 value indications embossed, stamped or otherwise attached
27 to them.

28 Sec. 7. This Act, being deemed of immediate importance,
29 shall take effect and be in force from and after its
30 publication in the Muscatine Journal, a newspaper published
31 in Muscatine, Iowa, and in The Fairfield Daily Ledger, a
32 newspaper published in Fairfield, Iowa.

33 EXPLANATION

34 Section 1 defines a nonrefillable beverage container.

35 Section 2 provides that a distributor shall not be required

1 to pay to a manufacturer a refund value on a nonrefillable
2 beverage container.

3 Section 3 limits the quantity of beverage containers which
4 may be imported into the state without a refund value
5 indication attached to them. The section also exempts beverage
6 containers sold on commercial airliners and passenger trains
7 from having the refund value indication attached.

8 Section 4 provides that violations of rules adopted by
9 the commission are punishable as simple misdemeanors and
10 declares certain acts to be fraudulent practices.

11 Section 5 authorizes distributors and manufacturers to
12 enter into agreements or contracts with each other or other
13 persons to collect, or pay the refund value on, or dispose
14 of, beverage containers.

15 Section 6 provides a thirty-one day transition period
16 following the effective date of chapter 455C during which
17 distributors and dealers may sell beverage containers without
18 having refund value indication attached or collecting deposits.
19 This does not apply to sales of alcoholic beverage containers.

20 Section 7 provides that this Act is effective upon
21 publication.

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SENATE FILE 388

S-3262

- 1 Amend Senate File 388 as follows:
- 2 1. Page 3, line 22, by striking the word and
- 3 figures "July 31, 1979" and inserting in lieu
- 4 thereof the word and figures "July 1, 1980".

S-3262 FILED *Law 3/23 (p. 927)*
MARCH 22, 1979

BY LOWELL L. JUNKINS DALE TIEDEN
 CHARLES MILLER RICHARD COMITO
 C. JOSEPH COLEMAN SUE YENGER

SENATE FILE 388

S-3264

- 1 Amend Senate File 388 as follows:
- 2 1. Page 1, line 9, by striking the word
- 3 "subsection" and inserting in lieu thereof the word
- 4 "subsections".
- 5 2. Page 1, by inserting after line 12 the
- 6 following:
- 7 "NEW SUBSECTION. If the refund value indication
- 8 required under section four hundred fifty-five C point
- 9 five (455C.5) of the Code on an empty nonrefillable
- 10 metal beverage container is readable, the container
- 11 shall be accepted and redeemed as provided in this
- 12 chapter."

S-3264 FILED *Adopted 3/23 (p. 926)* BY EDGAR H. HOLDEN
 MARCH 22, 1979

SENATE FILE 388

S-3268

- 1 Amend Senate File 388 as follows:
- DIV A* 2 1. Page 1, line 17, by inserting after the word
- 3 "state" the words "after July 1, 1979".
- DIV B* 4 2. Page 1, line 17, by inserting after the word
- 5 "container" the words "after October 1, 1979".

S-3268 FILED BY RICHARD F. DRAKE
 MARCH 23, 1979
 DIV A - ADOPTED (p. 927)
 DIV B - WITHDRAWN "

SENATE FILE 388

S-3272

- 1 Amend Senate File 388 as follows:
- 2 1. Page 1, line 17 by striking the words
- 3 "or have possession of".

S-3272 FILED & ADOPTED (p. 927) BY C. JOSEPH COLEMAN
 MARCH 23, 1979

Low Energy 3/28

SENATE FILE 388

Do Pass per 3812 4/9 (p. 1475)

BY COMMITTEE ON STATE GOVERNMENT

(AS AMENDED AND PASSED BY THE SENATE MARCH 26, 1979)

Passed Senate, Date See Below Passed House, Date 4-18-79 (p. 1528)
Vote: Ayes _____ Nays _____ Vote: Ayes 26 Nays 10
Approved June, 1979

A BILL FOR

1 An Act to regulate the sale and use of certain beverage con-
2 tainers by prohibiting a manufacturer from requiring a
3 distributor to pay to a manufacturer a refund value or
4 deposit on a nonrefillable beverage container; pronibiting
5 the importation of certain quantities of beverage con-
6 tainers not having a refund value indication as required
7 by chapter four hundred fifty-five C (455C) of the Code;
8 prescribing penalties for violations of departmental rules,
9 the multiple redemption of nonrefillable beverage containers
10 by a distributor, and certain acts and practices defined
11 as fraudulent; authorizing distributors to cooperate and
12 coordinate their business operations to carry out the
13 purposes of chapter four hundred fifty-five C (455C) of
14 the Code; and by authorizing a phaseout for containers not
15 having a refund value indication for the period from
16 July 1, 1979 through July 31, 1979.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

18 *Conference Committee Appointed 5/10*
19 *Rep. Evans, Chair; Kreson Larsen, Perkins, Howell (p. 2279)*
20 *Sen. Breenius, Chair; Drake, Holder, Rodgers, Scott (p. 1647)*

21 *Passed per Conference Committee Report 5/11*
22 *Senate 46-2* *House 92-4 (p. 2381)*

23 _____ = New Language
24 by the Senate
25 * = Language Stricken
by the Senate

1 Section 1. Section four hundred fifty-five C point one
2 (455C.1), Code 1979, is amended by adding the following new
3 subsection:

4 NEW SUBSECTION. "Nonrefillable beverage container" means
5 a beverage container not intended to be refilled for sale
6 by a manufacturer.

7 Sec. 2. Section four hundred fifty-five C point three
8 (455C.3), Code 1979, is amended by adding the following new
-9 subsections:

10 NEW SUBSECTION. A distributor shall not be required to
11 pay to a manufacturer a deposit or refund value on a
12 nonrefillable beverage container.

13 NEW SUBSECTION. If the refund value indication required
14 under section four hundred fifty-five C point five (455C.5)
15 of the Code on an empty nonrefillable metal beverage container
16 is readable, the container shall be accepted and redeemed
17 as provided in this chapter.

18 Sec. 3. Section four hundred fifty-five C point five
19 (455C.5), subsection two (2), Code 1979, is amended by striking
20 the subsection and inserting in lieu thereof the following:

21 2. A person, except a distributor, shall not import into
* 22 this state after July 1, 1979 a beverage container which does
23 not have securely affixed to the container the refund value
24 indication. The provisions of this subsection do not apply
25 if:

26 a. For beverage containers containing alcoholic liquor
27 as defined in section one hundred twenty-three point three
28 (123.3), subsection eight (8) of the Code, the total capacity
29 of the containers is not more than one quart or, in the case
30 of alcoholic liquor personally obtained outside the United
31 States, one gallon.

32 b. For beverage containers containing beer as defined
33 in section one hundred twenty-three point three (123.3),
34 subsection nine (9) of the Code, the total capacity of the
35 containers is not more than two hundred eighty-eight fluid

1 ounces.

2 c. For all other beverage containers, the total capacity
3 of the containers is not more than five hundred seventy-six
4 fluid ounces.

5 3. The provisions of subsections one (1) and two (2) of
6 this section do not apply to a refillable glass beverage
7 container which has a brand name permanently marked on it
8 and which has a refund value of not less than five cents,
9 to any other refillable beverage container which has a refund
10 value of not less than five cents and which is exempted by
11 the director under rules adopted by the commission, or to
12 a beverage container sold aboard a commercial airliner or
13 passenger train for consumption on the premises.

14 Sec. 4. Section four hundred fifty-five C point twelve
15 (455C.12), Code 1979, is amended to read as follows:

16 455C.12 ~~PENALTY~~ PENALTIES.

17 1. Any person violating the provisions of sections 455C.2,
18 455C.3, 455C.5 and 455C.8, or a rule adopted under this chapter
19 shall be guilty of a simple misdemeanor.

20 2. A distributor who collects or attempts to collect a
21 refund value on an empty beverage container when the
22 distributor has paid the refund value on the container to
23 a dealer, redemption center, or consumer is guilty of a
24 fraudulent practice.

25 3. Any person who does any of the following acts is guilty
26 of a fraudulent practice:

27 a. Collects or attempts to collect the refund value on
28 the container a second time, with the knowledge that the
29 refund value has once been paid by the distributor to a dealer,
30 redemption center or consumer.

31 b. Manufactures, sells, possesses or applies a false or
32 counterfeit label or indication which shows or purports to
33 show a refund value for a beverage container, with intent
34 to use the false or counterfeit label or indication.

35 c. Collects or attempts to collect a refund value on a

1 container with the use of a false or counterfeit label or
2 indication showing a refund value, knowing the label or
3 indication to be false or counterfeit.

4 4. As used in this section, a false or counterfeit label
5 or indication means a label or indication purporting to show
6 a valid refund value which has not been initially applied
7 as authorized by a distributor.

8 5. Subsection two (2) and subsection three (3), paragraph
9 a of this section have no application to empty beverage
10 containers which are intended to be refillable and are in
11 a standard of condition except for sanitization to be
12 refillable by the manufacturer.

13 Sec. 5. Chapter four hundred fifty-five C (455C), Code
14 1979, is amended by adding the following new section:

15 NEW SECTION. DISTRIBUTORS' AGREEMENTS AUTHORIZED. A
16 distributor may enter into a contract or agreement with any
17 other distributor, manufacturer or person for the purpose
18 of collecting or paying the refund value on, or disposing
19 of, beverage containers as provided in this chapter.

20 Sec. 6. Acts of the Sixty-seventh General Assembly, 1978
21 Session, chapter one thousand one hundred sixty-two (1162),
22 section fourteen (14), subsection two (2) is amended to read
23 as follows:

24 2. This Act shall be effective July 1, 1979 for all
25 beverage containers sold in this state except as provided
26 in subsection one (1) of this section. However, from July
27 1, 1979 through July 31, 1979, this Act shall not apply to
28 beverage containers sold in this state by dealers or
29 distributors excluding the Iowa beer and liquor control
30 department, if the beverage containers do not have refund
31 value indications embossed, stamped or otherwise attached
32 to them.

33 Sec. 7. This Act, being deemed of immediate importance,
34 shall take effect and be in force from and after its
35 publication in the Muscatine Journal, a newspaper published

1 in Muscatine, Iowa, and in The Fairfield Daily Ledger, a
2 newspaper published in Fairfield, Iowa.

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SF 388
tj/slc/26c

SENATE FILE 388

H-3941

- 1 Amend Senate File 388, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Chapter four hundred fifty-five C
6 (455C), Code 1979, is repealed."
7 2. Amend the title, by striking lines 1 through
8 16 and inserting in lieu thereof the following: "An
9 Act to repeal chapter four hundred fifty-five C (455C)
10 of the Code."

H-3941 FILED *Placed out of order 4/17 (1979)* BY WOODS of Polk
APRIL 17, 1979 CHIODO of Polk

SENATE FILE 388

H-3942

- 1 Amend Senate File 388, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. By striking page 1, line 18 through page 2,
4 line 13.
5 2. By renumbering sections to conform to this
6 amendment.

H-3942 FILED *Placed 4/18 (1979)* BY WOODS of Polk
APRIL 17, 1979

SENATE FILE 388

H-3657

- 1 Amend Senate File 388, as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 3, line 27, by striking the date "July
- 4 31" and inserting in lieu thereof the date "November
- 5 1".

H-3657 FILED *H/S. Journal 4/10 (p. 1522)* BY JOHNSON of Linn
MARCH 29, 1979

SENATE FILE 388

H-3752

- 1 Amend the amendment, H-3657, to Senate File 388,
- 2 as amended, passed and reprinted by the Senate, as
- 3 follows:
- 4 1. Page 1, lines 4 and 5, by striking the word
- 5 and figure "November 1" and inserting in lieu thereof
- 6 the word and figure "September 15".

H-3752 FILED *H/S. Journal 4/15 (p. 1588)* BY JOHNSON of Linn
APRIL 5, 1979

SENATE FILE 388

H-3812

- 1 Amend Senate File 388 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 1, line 9, by striking the word
- 4 "subsections" and inserting in lieu thereof the word
- 5 "subsection".
- 6 2. Page 1, by striking lines 13 through 17.

H-3812 FILED *Adopted 4/10 (p. 1550)* BY COMMITTEE ON ENERGY
APRIL 9, 1979 Evans, Chairperson

SENATE FILE 388

H-3593

- 1 Amend Senate File 388, as passed by the Senate
- 2 and reprinted, as follows:
- 3 1. Page 1, line 9, by striking the word
- 4 "subsections" and inserting in lieu thereof the
- 5 word "subsection".
- 6 2. Page 1, by striking lines 13 through 17.

H-3593 FILED *Placed out of order* BY DAGGETT of Taylor
 MARCH 27, 1979 *4/15 (p. 1530)* VAN MAANEN of Mahaska
Shall of Warren 3/25
Be. Fr. of Lyon 4/2
Contract of Winnebago 4/3

SENATE FILE 388

H-3624

- 1 Amend Senate File 388, as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, by inserting after line 17 the
- 4 following:
- 5 "Sec. ____ . Section four hundred fifty-five C point
- 6 four (455C.4), subsection one (1), Code 1979, is
- 7 amended to read as follows:
- 8 1. Except as provided in section 455C.5, subsection
- 9 2 subsections three (3) and four (4), a dealer, a
- 10 person operating a redemption center, a distributor
- 11 or a manufacturer may refuse to accept any empty
- 12 beverage container which does not have stated on it
- 13 a refund value as provided under section 455C.2."
- 14 2. Page 2, by inserting after line 13 the
- 15 following:
- 16 "4. The provisions of subsection one (1) of this
- 17 section do not apply to beverage containers containing
- 18 alcoholic liquor which are sold in this state."
- 19 3. By renumbering sections to conform to this
- 20 amendment.

H-3624 FILED *Adopted 4/15 (p. 1533)* BY WELDEN of Hardin
 MARCH 28, 1979

SENATE FILE 388

H-3631

- 1 Amend Senate File 388, as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 9, by striking the word
- 4 "subsections" and inserting in lieu thereof the word
- 5 "subsection".
- 6 2. Page 1, by striking lines 13 through 17.

H-3631 FILED *Placed out of order* BY BRANDT of Black Hawk
 MARCH 28, 1979 *4/15 (p. 1546)*

REPORT OF THE CONFERENCE COMMITTEE
ON SENATE FILE 388

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to consider the differences between the Senate and the House of Representatives on Senate File 388, a bill for an Act to regulate the sale and use of certain beverage containers by prohibiting a manufacturer from requiring a distributor to pay to a manufacturer a refund value or deposit on a nonrefillable beverage container; prohibiting the importation of certain quantities of beverage containers not having a refund value indication as required by chapter four hundred fifty-five C (455C) of the Code; prescribing penalties for violations of departmental rules, the multiple redemption of nonrefillable beverage containers by a distributor, and certain acts and practices defined as fraudulent; authorizing distributors to cooperate and coordinate their business operations to carry out the purposes of chapter four hundred fifty-five C (455C) of the Code; and by authorizing a phase-out for containers not having a refund value indication for the period from July 1, 1979 through July 31, 1979, respectfully makes the following report:

1. That the House recedes from its amendment, S-3531 to Senate File 388, as amended, passed and reprinted by the Senate.
2. That Senate File 388, as amended, passed and reprinted

PAGE 2 (CONFERENCE COMMITTEE REPORT ON S.F. 388)

by the Senate be amended as follows:

1. Page 1, line 9, by striking the word "subsections" and inserting in lieu thereof the word "subsection".
2. Page 1, by striking lines 13 through 17.
3. Page 3, by inserting after line 19 the following:
"Sec. 6. Chapter four hundred fifty-five C (455C), Code 1979, is amended by adding the following new section:

NEW SECTION. REDEMPTION OF REFUSED NONREFILLABLE METAL BEVERAGE CONTAINERS.

1. If the refund value indication required under section four hundred fifty-five C point five (455C.5) of the Code on an empty nonrefillable metal beverage container is readable but the redemption of the container is lawfully refused by a dealer or person operating a redemption center under other sections of this chapter or rules adopted pursuant to these sections, the container shall be accepted and the refund value paid to a consumer as provided in this section. Each beer distributor selling nonrefillable metal beverage containers in this state shall provide individually or collectively by contract or agreement with a dealer, person operating a redemption center or another person, at least one facility in the county seat of each county where refused empty nonrefillable metal beverage containers having a readable refund value indication as required by this chapter are accepted and redeemed. In cities having a population of twenty-five thousand or more, the number of the facilities provided shall be one for each twenty-five thousand population or a fractional part of that population.

2. A beer distributor violating this section is guilty of a simple misdemeanor."

4. By striking page 3, line 33 through page 4, line 2 and inserting in lieu thereof the following:

"Sec. ____ . Section six (6) of this Act is effective July 1, 1980."

5. By numbering and renumbering sections and correcting

internal references to conform to this amendment.

6. Amend the title by striking lines 1 through 16 and inserting in lieu thereof the following: "An Act relating to the importation, sale and redemption of certain beverage containers and providing penalties."

ON THE PART OF THE SENATE:

STEPHEN W. BIENIUS, CHAIRPERSON
RICHARD F. DRAKE
EDGAR H. HOLDEN
NORMAN RODGERS

ON THE PART OF THE HOUSE:

COOPER EVANS, CHAIRPERSON
LYLE R. KREWSON
SONJA LARSEN
ROLLIN K. HOWELL
CARROLL PERKINS

FILED MAY 11, 1979

*Senate adopted 5/11 (p. 1702)
House adopted 5/1 (p. 2381)*

HOUSE AMENDMENT TO SENATE FILE 388

S-3531

- 1 Amend Senate File 388, as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 9, by striking the word
- 4 "subsections" and inserting in lieu thereof the word
- 5 "subsection".
- 6 2. Page 1, by striking lines 13 through 17.
- 7 3. Page 1, by inserting after line 17 the
- 8 following:
- 9 "Sec. ____ . Section four hundred fifty-five C point
- 10 four (455C.4), subsection one (1), Code 1979, is
- 11 amended to read as follows:
- 12 1. Except as provided in section 455C.5, subsection
- 13 2 subsections three (3) and four (4), a dealer, a
- 14 person operating a redemption center, a distributor
- 15 or a manufacturer may refuse to accept any empty
- 16 beverage container which does not have stated on it
- 17 a refund value as provided under section 455C.2."
- 18 4. Page 2, by inserting after line 13 the
- 19 following:
- 20 "4. The provisions of subsection one (1) of this
- 21 section do not apply to beverage containers containing
- 22 alcoholic liquor which are sold in this state."
- 23 5. Renumbering sections to conform to this
- 24 amendment.

S-3531 FILED
APRIL 18, 1979

RECEIVED FROM THE HOUSE

Senate refused to concur 5/1 (p. 1577). House amended 5/1 (p. 2381)

1 Amend the amendment, S-3531, to Senate File 388,
2 as amended, passed and reprinted by the Senate, as
3 follows:

4 1. Page 1, by inserting after line 22 the
5 following:

6 "Sec. _____. Page 3, by inserting after line 19 the
7 following:

8 "Sec. _____. Chapter four hundred fifty-five C
9 (455C), Code 1979, is amended by adding the following
10 new section:

11 NEW SECTION. REDEMPTION OF REFUSED NONREFILLABLE
12 METAL BEVERAGE CONTAINERS.

13 1. If the refund value indication required under
14 section four hundred fifty-five C point five (455C.5)
15 of the Code on an empty nonrefillable metal beverage
16 container is readable but the redemption of the
17 container is lawfully refused by a dealer or person
18 operating a redemption center under other sections
19 of this chapter or rules adopted pursuant to these
20 sections, the container shall be accepted and the
21 refund value paid to a consumer as provided in this
22 section. Each distributor selling nonrefillable metal
23 beverage containers in this state shall provide,
24 individually or by contract or agreement with a dealer,
25 person operating a redemption center or another
26 distributor, at least one facility in the county seat
27 of each county where refused empty nonrefillable metal
28 beverage containers having a readable refund value
29 indication as required by this chapter are accepted
30 and redeemed. In cities having a population of twenty-
31 five thousand or more, the distributor shall provide
32 a facility for the acceptance and redemption of the
33 containers for each twenty-five thousand population
34 or fractional part of that population.

35 2. A distributor violating this section is guilty
36 of a serious misdemeanor."

S-3655 FILED *2/Drawn 5/8 (p. 1579)* BY EDGAR H. HOLDEN
APRIL 30, 1979

SENATE FILE 388

AN ACT
RELATING TO THE IMPORTATION, SALE AND REDEMPTION OF
CERTAIN BEVERAGE CONTAINERS AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section four hundred fifty-five C point one (455C.1), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. "Nonrefillable beverage container" means a beverage container not intended to be refilled for sale by a manufacturer.

Sec. 2. Section four hundred fifty-five C point three (455C.3), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. A distributor shall not be required to pay to a manufacturer a deposit or refund value on a nonrefillable beverage container.

Sec. 3. Section four hundred fifty-five C point five (455C.5), subsection two (2), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

2. A person, except a distributor, shall not import into this state after July 1, 1979 a beverage container which does not have securely affixed to the container the refund value

indication. The provisions of this subsection do not apply if:

a. For beverage containers containing alcoholic liquor as defined in section one hundred twenty-three point three (123.3), subsection eight (8) of the Code, the total capacity of the containers is not more than one quart or, in the case of alcoholic liquor personally obtained outside the United States, one gallon.

b. For beverage containers containing beer as defined in section one hundred twenty-three point three (123.3), subsection nine (9) of the Code, the total capacity of the containers is not more than two hundred eighty-eight fluid ounces.

c. For all other beverage containers, the total capacity of the containers is not more than five hundred seventy-six fluid ounces.

3. The provisions of subsections one (1) and two (2) of this section do not apply to a refillable glass beverage container which has a brand name permanently marked on it and which has a refund value of not less than five cents, to any other refillable beverage container which has a refund value of not less than five cents and which is exempted by the director under rules adopted by the commission, or to a beverage container sold aboard a commercial airliner or passenger train for consumption on the premises.

Sec. 4. Section four hundred fifty-five C point twelve (455C.12), Code 1979, is amended to read as follows:

455C.12 PENALTY PENALTIES.

1. Any person violating the provisions of sections 455C.2, 455C.3, 455C.5 and 455C.8, or a rule adopted under this chapter shall be guilty of a simple misdemeanor.

2. A distributor who collects or attempts to collect a refund value on an empty beverage container when the distributor has paid the refund value on the container to a dealer, redemption center, or consumer is guilty of a fraudulent practice.

3. Any person who does any of the following acts is guilty of a fraudulent practice:

a. Collects or attempts to collect the refund value on the container a second time, with the knowledge that the refund value has once been paid by the distributor to a dealer, redemption center or consumer.

b. Manufactures, sells, possesses or applies a false or counterfeit label or indication which shows or purports to show a refund value for a beverage container, with intent to use the false or counterfeit label or indication.

c. Collects or attempts to collect a refund value on a container with the use of a false or counterfeit label or indication showing a refund value, knowing the label or indication to be false or counterfeit.

4. As used in this section, a false or counterfeit label or indication means a label or indication purporting to show a valid refund value which has not been initially applied as authorized by a distributor.

5. Subsection two (2) and subsection three (3), paragraph a of this section have no application to empty beverage containers which are intended to be refillable and are in a standard of condition except for sanitization to be refillable by the manufacturer.

Sec. 5. Chapter four hundred fifty-five C (455C), Code 1979, is amended by adding the following new section:

NEW SECTION. DISTRIBUTORS' AGREEMENTS AUTHORIZED. A distributor may enter into a contract or agreement with any other distributor, manufacturer or person for the purpose of collecting or paying the refund value on, or disposing of, beverage containers as provided in this chapter.

Sec. 6. Chapter four hundred fifty-five C (455C), Code 1979, is amended by adding the following new section:

NEW SECTION. REDEMPTION OF REFUSED NONREFILLABLE METAL BEVERAGE CONTAINERS.

1. If the refund value indication required under section four hundred fifty-five C point five (455C.5) of the Code on an empty nonrefillable metal beverage container is readable but the redemption of the container is lawfully refused by a dealer or person operating a redemption center under other sections of this chapter or rules adopted pursuant to these sections, the container shall be accepted and the refund value paid to a consumer as provided in this section. Each beer distributor selling nonrefillable metal beverage containers in this state shall provide individually or collectively by contract or agreement with a dealer, person operating a redemption center or another person, at least one facility in the county seat of each county where refused empty nonrefillable metal beverage containers having a readable refund value indication as required by this chapter are accepted and redeemed. In cities having a population of twenty-five thousand or more, the number of the facilities provided shall be one for each twenty-five thousand population or a fractional part of that population.

2. A beer distributor violating this section is guilty of a simple misdemeanor.

Sec. 7. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred sixty-two (1162), section fourteen (14), subsection two (2) is amended to read as follows:

2. This Act shall be effective July 1, 1979 for all beverage containers sold in this state except as provided in subsection one (1) of this section. However, from July 1, 1979 through July 31, 1979, this Act shall not apply to beverage containers sold in this state by dealers or distributors excluding the Iowa beer and liquor control department, if the beverage containers do not have refund value indications embossed, stamped or otherwise attached to them.

Sec. 8. Section six (6) of this Act is effective July 1, 1980.

TERRY E. BRANSTAD
President of the Senate

FLOYD H. MILLEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 388, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved June 1, 1979

ROBERT D. RAY
Governor