

## CHAPTER 455C

## BEVERAGE CONTAINERS CONTROL

Referred to in §123.187, 423.6, 455A.4, 455A.6

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**455C.1 Definitions.**

As used in this chapter unless the context otherwise requires:

1. “Beverage” means wine as defined in section 123.3, subsection 47, alcoholic liquor as defined in section 123.3, subsection 5, beer as defined in section 123.3, subsection 7, mineral water, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.
2. “Beverage container” means any sealed glass, plastic, or metal bottle, can, jar or carton containing a beverage.
3. “Commission” means the environmental protection commission of the department.
4. “Consumer” means any person who purchases a beverage in a beverage container for use or consumption.
5. “Dealer” means any person who engages in the sale of beverages in beverage containers to a consumer.
6. “Dealer agent” means a person who solicits or picks up empty beverage containers from a dealer for the purpose of returning the empty beverage containers to a distributor or manufacturer.
7. “Department” means the department of natural resources created under section 455A.2.
8. “Director” means the director of the department.
9. “Distributor” means any person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales.
10. “Geographic territory” means the geographical area within a perimeter formed by the outermost boundaries served by a distributor.
11. “Manufacturer” means any person who bottles, cans, or otherwise fills beverage containers for sale to distributors or dealers.
12. “Nonrefillable beverage container” means a beverage container not intended to be refilled for sale by a manufacturer.
13. “Redemption center” means a facility at which consumers may return empty beverage containers and receive payment for the refund value of the empty beverage containers.

[C79, 81, §455C.1; 82 Acts, ch 1199, §71, 96]

85 Acts, ch 32, §111; 86 Acts, ch 1245, §1899C, 1899D; 87 Acts, ch 22, §12; 88 Acts, ch 1200, §1; 89 Acts, ch 272, §34, 42; 90 Acts, ch 1261, §43, 44; 91 Acts, ch 268, §433, 442, 443; 92 Acts, ch 1242, §40, 47

Referred to in §455B.313

**455C.2 Refund values.**

1. A refund value of not less than five cents shall be paid by the consumer on each beverage container sold in this state by a dealer for consumption off the premises. Upon return of the empty beverage container upon which a refund value has been paid to the dealer or person operating a redemption center and acceptance of the empty beverage container by the dealer

or person operating a redemption center, the dealer or person operating a redemption center shall return the amount of the refund value to the consumer.

2. In addition to the refund value provided in subsection 1 of this section, a dealer, or person operating a redemption center who redeems empty beverage containers or a dealer agent shall be reimbursed by the distributor required to accept the empty beverage containers an amount which is one cent per container. A dealer, dealer agent, or person operating a redemption center may compact empty metal beverage containers with the approval of the distributor required to accept the containers.

[C79, 81, §455C.2]

87 Acts, ch 22, §13; 88 Acts, ch 1200, §2; 89 Acts, ch 272, §35, 42; 90 Acts, ch 1261, §43, 44; 91 Acts, ch 268, §434, 442, 443; 92 Acts, ch 1242, §34, 38, 39, 40, 47

Referred to in §123.24, 455C.3, 455C.4, 455C.12

#### **455C.3 Payment of refund value.**

Except as provided in section 455C.4:

1. A dealer shall not refuse to accept from a consumer any empty beverage container of the kind, size and brand sold by the dealer, or refuse to pay to the consumer the refund value of a beverage container as provided under section 455C.2.

2. A distributor shall accept and pick up from a dealer served by the distributor or a redemption center for a dealer served by the distributor at least weekly, or when the distributor delivers the beverage product if deliveries are less frequent than weekly, any empty beverage container of the kind, size and brand sold by the distributor, and shall pay to the dealer or person operating a redemption center the refund value of a beverage container and the reimbursement as provided under section 455C.2 within one week following pickup of the containers or when the dealer or redemption center normally pays the distributor for the deposit on beverage products purchased from the distributor if less frequent than weekly. A distributor or employee or agent of a distributor is not in violation of this subsection if a redemption center is closed when the distributor attempts to make a regular delivery or a regular pickup of empty beverage containers. This subsection does not apply to a distributor selling alcoholic liquor to the alcoholic beverages division of the department of commerce.

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

4. A distributor shall accept from a dealer agent any empty beverage container of the kind, size, and brand sold by the distributor and which was picked up by the dealer agent from a dealer within the geographic territory served by the distributor and the distributor shall pay the dealer agent the refund value of the empty beverage container and the reimbursement as provided in section 455C.2.

5. The alcoholic beverages division of the department of commerce shall provide for the disposal of empty beverage containers as required under subsection 2. The division shall give priority consideration to the recycling of the empty beverage containers to the extent possible, before any other appropriate disposal method is considered or implemented.

[C79, 81, §455C.3]

83 Acts, ch 84, §1; 88 Acts, ch 1200, §3; 89 Acts, ch 272, §36, 42; 90 Acts, ch 1261, §43, 44; 91 Acts, ch 268, §442, 443; 92 Acts, ch 1242, §35, 38, 39, 40, 47

Referred to in §455C.12

#### **455C.4 Refusal to accept containers.**

1. Except as provided in section 455C.5, subsection 3, a dealer, a person operating a redemption center, a distributor or a manufacturer may refuse to accept any empty beverage container which does not have stated on it a refund value as provided under section 455C.2.

2. A dealer may refuse to accept and to pay the refund value of any empty beverage container if the place of business of the dealer and the kind and brand of empty beverage containers are included in an order of the department approving a redemption center under section 455C.6.

3. A dealer or a distributor may refuse to accept and to pay the refund value of an empty wine or alcoholic liquor container which is marked to indicate that it was sold by a state

liquor store. The alcoholic beverages division shall not reimburse a dealer or a distributor the refund value on an empty wine or alcoholic liquor container which is marked to indicate that the container was sold by a state liquor store.

4. A class "E" liquor control licensee may refuse to accept and to pay the refund value on an empty alcoholic liquor container from a dealer or a redemption center or from a person acting on behalf of or who has received empty alcoholic liquor containers from a dealer or a redemption center.

5. A manufacturer or distributor may refuse to accept and to pay the refund value and reimbursement as provided in section 455C.2 on any empty beverage container that was picked up by a dealer agent from a dealer outside the geographic territory served by the manufacturer or distributor.

[C79, 81, §455C.4]

85 Acts, ch 32, §112; 87 Acts, ch 22, §14, 15; 88 Acts, ch 1200, §4; 89 Acts, ch 161, §9

Referred to in §455C.3

#### **455C.5 Refund value stated on container — exceptions.**

1. Each beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, label or other method securely affixed to the container, the refund value of the container. The department shall specify, by rule, the minimum size of the refund value indication on the beverage containers.

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 123.3, subsection 5, 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 123.3, subsection 7, 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 1 and 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.

[C79, 81, §455C.5]

85 Acts, ch 32, §113; 87 Acts, ch 22, §16

Referred to in §123.26, 455C.4, 455C.12, 455C.14

#### **455C.6 Redemption centers.**

1. To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the department, at which consumers may return empty beverage containers and receive payment of the refund value of such beverage containers.

2. An application for approval of a redemption center shall be filed with the department. The application shall state the name and address of the person responsible for the establishment and operation of the redemption center, the kind and brand names of the beverage containers which will be accepted at the redemption center, and the names and addresses of the dealers to be served by the redemption center. The application shall contain such other information as the director may reasonably require.

3. The department shall approve a redemption center if it finds that the redemption center will provide a convenient service to consumers for the return of empty beverage containers. The order of the department approving a redemption center shall state the dealers to be served by the redemption center and the kind and brand names of empty beverage containers which the redemption center must accept. The order may contain such other provisions to insure

that the redemption center will provide a convenient service to the public as the director may determine.

4. The department may review the approval of any redemption center at any time. After written notice to the person responsible for the establishment and operation of the redemption center, and to the dealers served by the redemption center, the commission may, after hearing, withdraw approval of a redemption center if the commission finds there has not been compliance with the department's order approving the redemption center, or if the redemption center no longer provides a convenient service to the public.

5. All approved redemption centers shall meet applicable health standards.

[C79, 81, §455C.6]

Referred to in §455C.4

#### **455C.7 Unapproved redemption centers.**

Any person may establish a redemption center which has not been approved by the department, at which a consumer may return empty beverage containers and receive payment of the refund value of the beverage containers. The establishment of an unapproved redemption center shall not relieve any dealer from the responsibility of redeeming any empty beverage containers of the kind and brand sold by the dealer.

[C79, 81, §455C.7]

#### **455C.8 Snap-top cans prohibited.**

A person shall not sell or offer for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container.

[C79, 81, §455C.8]

Referred to in §455C.12

#### **455C.9 Rules adopted.**

The commission shall adopt, upon recommendation of the director, the rules necessary to carry out the provisions of this chapter, subject to the provisions of chapter 17A.

[C79, 81, §455C.9]

#### **455C.10 Appeal.**

Any person aggrieved by an order of the department relating to the approval or withdrawal of approval for a redemption center may seek judicial review of such order as provided in chapter 17A.

[C79, 81, §455C.10]

#### **455C.11 Repealed by 87 Acts, ch 22, § 17.**

#### **455C.12 Penalties.**

1. Any person violating the provisions of section 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 2 and subsection 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.

[C79, 81, §455C.12]

#### **455C.13 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.

[C81, §455C.13]

#### **455C.14 Redemption of refused nonrefillable metal beverage containers.**

1. If the refund value indication required under section 455C.5 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.

[C81, §455C.14]

#### **455C.15 Plastic cans prohibited.**

1. A person shall not manufacture, offer for sale, or sell any single-serving beverage container which is a plastic can nor offer for sale or sell any beverage packaged in a single-serving plastic can. For the purposes of this section, a “*plastic can*” means a beverage container which, in addition to the closure mechanism, is composed of plastic and metal.

2. A person violating this section is guilty of a serious misdemeanor.

89 Acts, ch 44, §1

#### **455C.16 Beverage containers — disposal at sanitary landfill prohibited.**

Beginning July 1, 1990, the final disposal of beverage containers by a dealer, distributor, or manufacturer, or person operating a redemption center, in a sanitary landfill, is prohibited. Beginning September 1, 1992, the final disposal of beverage containers used to contain alcoholic liquor as defined in section 123.3, subsection 5, by a dealer, distributor, or manufacturer, or person operating a redemption center in a sanitary landfill, is prohibited.

89 Acts, ch 272, §37; 91 Acts, ch 268, §435; 92 Acts, ch 1215, §14

#### **455C.17 Grants for independent redemption centers.**

1. An independent redemption center grant program shall be established by the department to award grants for improvements to independent redemption centers. An “*independent redemption center*” is a redemption center that is also a nonprofit or a for-profit facility that has existed prior to July 1, 2008, and that is not affiliated with or in any way a subsidiary of a dealer, a distributor, or a manufacturer.

2. a. An independent redemption center grant fund is established in the state treasury under the authority of the department. The fund shall consist of moneys appropriated to the fund or appropriated to the department for purposes of the grant program. Moneys in the fund are appropriated to the department to be used for the grant program.

b. Notwithstanding section 8.33, moneys in the fund at the close of any fiscal year shall

not revert to any other fund but shall remain in the fund for the subsequent fiscal year to be used for purposes of the fund.

3. *a.* Moneys in the grant fund shall be used by the department to provide grants to independent redemption centers for purposes of making improvements to such centers. The department shall not award grants in a fiscal year in an aggregate of more than one million dollars. A grant shall not exceed fifteen thousand dollars for any independent redemption center.

*b.* The department shall not pay administrative costs relating to the management of the grant program in excess of three and one-half percent of the moneys in the fund in a fiscal year.

2008 Acts, ch 1191, §78