

House File 814

H-1399

1 Amend House File 814 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 455C.1, subsections 1, 6, and 13, Code
5 2021, are amended to read as follows:

6 1. "*Beverage*" means wine as defined in section 123.3,
7 subsection 54, alcoholic liquor as defined in section 123.3,
8 subsection 5, beer as defined in section 123.3, subsection
9 7, high alcoholic content beer as defined in section 123.3,
10 subsection 22, canned cocktail as defined in section 123.3,
11 subsection 11, mineral water, soda water, and similar
12 carbonated soft drinks in liquid form and intended for human
13 consumption.

14 6. "*Dealer agent*" means a person who solicits or picks up
15 empty beverage containers ~~from a dealer~~ for the purpose of
16 returning the empty beverage containers to a distributor or
17 manufacturer.

18 13. "*Redemption center*" means a facility at which consumers
19 may return empty beverage containers and receive payment for
20 the refund value of the empty beverage containers. "Redemption
21 center" includes a participating dealer registered pursuant to
22 section 455C.6A.

23 Sec. 2. Section 455C.1, Code 2021, is amended by adding the
24 following new subsection:

25 NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer,
26 whether registered or unregistered, who accepts the return of
27 empty beverage containers from a consumer.

28 Sec. 3. Section 455C.2, Code 2021, is amended to read as
29 follows:

30 **455C.2 Refund values.**

31 1. A refund value of not less than five cents shall be paid
32 by the consumer on each beverage container sold in this state
33 by a dealer for consumption off the premises. Upon return of
34 the empty beverage container upon which a refund value has
35 been paid to ~~the~~ a participating dealer or person operating

1 a redemption center and acceptance of the empty beverage
2 container by the participating dealer or ~~person operating a~~
3 redemption center, the participating dealer or ~~person operating~~
4 a redemption center shall immediately return the amount of
5 the refund value to the consumer. Upon return of the empty
6 beverage container on which a refund value has been paid to a
7 dealer agent, the dealer agent shall return the amount of the
8 refund value to the consumer within a reasonable time not to
9 exceed fourteen days.

10 2. a. In addition to the refund value provided in
11 subsection 1 of ~~this section~~, a participating dealer, or ~~person~~
12 ~~operating a redemption center,~~ who redeems empty beverage
13 containers or a dealer agent shall be reimbursed by the
14 distributor required to accept the empty beverage containers
15 an amount ~~which that~~ is ~~one cent~~ two cents per container. A
16 participating dealer, dealer agent, or ~~person operating a~~
17 redemption center may compact empty metal beverage containers
18 with the approval of the distributor required to accept the
19 containers.

20 b. When a distributor delivers beverage containers to
21 a dealer, the dealer shall pay to the distributor as a
22 contribution to the reimbursement required under paragraph "a"
23 one-half of one cent per beverage container for sixty percent
24 of the beverage containers delivered.

25 Sec. 4. Section 455C.3, subsections 1, 2, and 4, Code 2021,
26 are amended to read as follows:

27 1. A participating dealer shall not refuse to accept from a
28 consumer any empty beverage container of the kind, size, and
29 brand sold by the participating dealer, or refuse to pay to the
30 consumer the refund value of a beverage container as provided
31 under [section 455C.2](#).

32 2. A distributor shall accept and pick up from a
33 participating dealer served by the distributor or a redemption
34 center for a dealer served by the distributor at least weekly,
35 or when the distributor delivers the beverage product if

1 deliveries are less frequent than weekly, any empty beverage
2 container of the kind, size, and brand sold by the distributor,
3 and shall pay to the participating dealer or ~~person operating~~
4 a redemption center the refund value of a beverage container
5 and the reimbursement as provided under [section 455C.2](#) within
6 one week following pickup of the containers or when the
7 participating dealer or redemption center normally pays the
8 distributor for the deposit on beverage products purchased from
9 the distributor if less frequent than weekly. A distributor
10 or employee or agent of a distributor is not in violation
11 of [this subsection](#) if a redemption center is closed when the
12 distributor attempts to make a regular delivery or a regular
13 pickup of empty beverage containers. [This subsection](#) does
14 not apply to a distributor selling alcoholic liquor to the
15 alcoholic beverages division of the department of commerce.

16 4. A distributor shall accept from a dealer agent any
17 empty beverage container of the kind, size, and brand sold by
18 the distributor and ~~which~~ that was picked up by the dealer
19 agent ~~from a dealer~~ within the geographic territory served
20 by the distributor and the distributor shall pay the dealer
21 agent the refund value of the empty beverage container and the
22 reimbursement as provided in [section 455C.2](#).

23 Sec. 5. Section 455C.4, Code 2021, is amended to read as
24 follows:

25 **455C.4 Refusal to accept containers.**

26 1. Except as provided in [section 455C.5, subsection 3](#),
27 a participating dealer, a ~~person operating~~ dealer agent, a
28 redemption center, a distributor, or a manufacturer may refuse
29 to accept any empty beverage container ~~which~~ that does not have
30 stated on it a refund value as provided under [section 455C.2](#).

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

1 a county with a population of more than thirty thousand and
2 within ten miles of a registered redemption center or if the
3 dealer's place of business is in a county with a population
4 of thirty thousand or fewer and within fifteen miles of a
5 registered redemption center.

6 ~~3. A dealer or a distributor may refuse to accept and to pay~~
7 ~~the refund value of an empty wine or alcoholic liquor container~~
8 ~~which is marked to indicate that it was sold by a state liquor~~
9 ~~store. The alcoholic beverages division shall not reimburse~~
10 ~~a dealer or a distributor the refund value on an empty wine or~~
11 ~~alcoholic liquor container which is marked to indicate that the~~
12 ~~container was sold by a state liquor store.~~

13 ~~4.~~ 3. A class "E" liquor control licensee may refuse to
14 accept and to pay the refund value on an empty alcoholic liquor
15 container from a participating dealer or a redemption center
16 or from a person acting on behalf of or who has received empty
17 alcoholic liquor containers ~~from a dealer or a redemption~~
18 center.

19 ~~5.~~ 4. A manufacturer or distributor may refuse to accept
20 and to pay the refund value and reimbursement as provided in
21 section 455C.2 on any empty beverage container that was picked
22 up by a dealer agent ~~from a dealer~~ outside the geographic
23 territory served by the manufacturer or distributor.

24 Sec. 6. Section 455C.5, subsection 1, Code 2021, is amended
25 to read as follows:

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

33 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2021,
34 are amended to read as follows:

35 1. To facilitate the return of empty beverage containers

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

6 2. ~~An application for approval of~~ Written notice of the
7 operation of a redemption center shall be filed with the
8 department. The ~~application~~ notice shall state the name
9 and address of the person responsible for the establishment
10 and operation of the redemption center, ~~the kind and brand~~
11 ~~names of the beverage containers which will be accepted at~~
12 ~~the redemption center,~~ and the names and addresses of the
13 dealers to be served by the redemption center. The ~~application~~
14 notice shall contain such other information as the director
15 may reasonably require. Upon filing a proper notice, the
16 redemption center shall be considered registered for purposes
17 of this chapter.

18 5. All ~~approved~~ redemption centers shall meet applicable
19 health standards.

20 Sec. 8. Section 455C.6, subsections 3 and 4, Code 2021, are
21 amended by striking the subsections.

22 Sec. 9. NEW SECTION. 455C.6A Participating dealer acting as
23 registered redemption center.

24 A participating dealer may register with the department to
25 act as a registered redemption center for purposes of this
26 chapter.

27 Sec. 10. Section 455C.12, subsections 2 and 3, Code 2021,
28 are amended to read as follows:

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

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

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

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

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

13 Sec. 11. Section 455C.12, Code 2021, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 6. A person who violates any provision of
16 this chapter, or any rule, permit, or order adopted or issued
17 under this chapter, shall be subject to a civil penalty not
18 to exceed two thousand five hundred dollars for each day of
19 the violation. The department shall adopt rules establishing
20 a schedule of civil penalties based on the severity of the
21 violation. Any civil penalty collected under this chapter
22 shall be deposited in the bottle bill fund established in
23 section 455C.12D.

24 Sec. 12. NEW SECTION. **455C.12A Administrative enforcement**
25 **— compliance orders.**

26 1. The director may issue any order necessary to secure
27 compliance with or prevent a violation of the provisions of
28 this chapter or any rule adopted or permit or order issued
29 pursuant to this chapter. Any order issued pursuant to this
30 section may impose a civil penalty authorized pursuant to
31 section 455C.12, subsection 6, for a violation of the order,
32 to be collected administratively by the department. The
33 person to whom the compliance order is issued may cause to be
34 commenced a contested case within the meaning of chapter 17A by
35 filing within thirty days a notice of appeal to the director.

1 Following a contested case hearing and a proposed decision
2 issued by the department, the commission may affirm, modify, or
3 vacate the proposed decision.

4 2. If a person continues an alleged violation during the
5 appeals process and the commission affirms that the person has
6 committed a violation, the department may assess penalties for
7 each day the violation continued through the appeals process.

8 Sec. 13. NEW SECTION. **455C.12B Judicial review.**

9 Judicial review of any final order or other final action of
10 the commission or director may be sought in accordance with the
11 terms of chapter 17A. Notwithstanding the terms of chapter
12 17A, petitions for judicial review may be filed in the district
13 court of the county in which the alleged offense was committed.

14 Sec. 14. NEW SECTION. **455C.12C Civil actions for compliance**
15 **— penalties.**

16 The attorney general, on request of the department, shall
17 institute any legal proceedings necessary to obtain compliance
18 with an order of the commission or the director, including
19 proceedings for a temporary injunction, or prosecuting any
20 person for a violation of the provisions of this chapter or
21 any rules adopted or permit or order issued pursuant to this
22 chapter.

23 Sec. 15. NEW SECTION. **455C.12D Bottle bill fund.**

24 A bottle bill fund is established in the state treasury
25 under the control of the department. The fund shall consist
26 of moneys deposited in the fund pursuant to section 455C.12,
27 subsection 6, and any other moneys appropriated to or deposited
28 in the fund. Moneys in the fund are appropriated to the
29 department for purposes of administering and enforcing this
30 chapter. Notwithstanding section 8.33, moneys in the fund
31 that remain unencumbered or unobligated at the close of a
32 fiscal year shall not revert but shall remain available for
33 expenditure for the purposes designated. Notwithstanding
34 section 12C.7, subsection 2, interest or earnings on moneys in
35 the fund shall be credited to the fund.

1 Sec. 16. Section 455C.13, Code 2021, is amended to read as
2 follows:

3 **455C.13 Distributors' agreements authorized.**

4 1. A distributor, dealer, or redemption center may enter
5 into a contract or agreement with any other distributor,
6 manufacturer, or person for the purpose of collecting or paying
7 the refund value on, or disposing of, beverage containers as
8 provided in [this chapter](#).

9 2. For purposes of this chapter, any contracts entered into
10 pursuant to this section for the collection or disposal of
11 empty beverage containers shall not be deemed to interfere with
12 the refund value pursuant to section 455C.2. A contract shall
13 not authorize a person to offer and pay a refund value of less
14 than five cents.

15 Sec. 17. REPEAL. Sections 455C.7, 455C.10, and 455C.14,
16 Code 2021, are repealed.

17 Sec. 18. LEGISLATIVE FISCAL COMMITTEE REVIEW.

18 1. The legislative fiscal committee established in
19 section 2.45 shall hold a meeting during the legislative
20 interim immediately preceding the 2025 regular legislative
21 session. During the meeting, the committee shall review the
22 enforcement of chapter 455C by the department of natural
23 resources, including the collection of civil penalties, the
24 report submitted by the attorney general pursuant to subsection
25 2, whether and how many redemption centers and participating
26 dealers registered with the department, and the adequacy of
27 the reimbursement amount under section 455C.2, subsection
28 2. The committee shall submit a report of its findings and
29 recommendations to the general assembly no later than January
30 31, 2025.

31 2. The attorney general shall submit a report to the
32 general assembly prior to the legislative fiscal committee's
33 meetings under subsection 1. The report shall detail any legal
34 proceedings arising under chapter 455C since the effective date
35 of this Act.

1 Sec. 19. EFFECTIVE DATE. This Act takes effect July 1,
2 2022.>

3 2. Title page, line 2, after <penalties,> by inserting
4 <making appropriations,>

LUNDGREN of Dubuque