

**EIGHTY-NINTH GENERAL ASSEMBLY
2022 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

March 30, 2022

Clip Sheet Summary

Displays all amendments, fiscal notes, and conference committee reports for previous day.

Bill	Amendment	Action	Sponsor
HF 2369	H-8304		RECEIVED FROM THE SENATE
HF 2562	H-8309		LOHSE of Polk
HF 2571	H-8305		LOHSE of Polk
SF 348	H-8308		HITE of Mahaska
SF 2378	H-8306		LOHSE of Polk
SF 2378	H-8307		ISENHART of Dubuque

Fiscal Notes

[SF 2378](#) — [Beverage Container Control, Bottle Bill](#) (LSB5962SV.1)

[HF 2239](#) — [Rape Shield Protection](#) (LSB5279HV.1)

SENATE AMENDMENT TO
HOUSE FILE 2369

H-8304

1 Amend House File 2369, as passed by the House, as follows:
2 1. Page 1, by striking lines 8 through 22 and inserting:
3 <2. A person may kill, trap, or ensnare a fur-bearing animal
4 when the killing, trapping, or ensnaring is for the protection
5 of a person or public or private property, including a
6 domestic animal, with the prior permission of a duly appointed
7 representative of the commission. If prior permission is
8 impractical or impossible to obtain and the fur-bearing animal
9 represents a threat to a person, ~~domestic animal~~, or private
10 property, including a domestic animal, the fur-bearing animal
11 may be taken without prior permission. Prior permission is
12 not required for taking a coyote, raccoon, opossum, skunk, or
13 groundhog for purposes described in this subsection.
14 3. All fur-bearing animals and all parts thereof taken as
15 provided in ~~this section~~ subsection 2 shall be disposed of on
16 the site or shall be relinquished to a representative of the
17 commission.>

H-8304 FILED MARCH 30, 2022

HOUSE FILE 2562

H-8309

1 Amend House File 2562 as follows:

2 1. By striking page 5, line 35, through page 16, line 9, and
3 inserting:

4 <DIVISION ____
5 REGULATION BY COUNTIES AND CITIES — CONTINUING NONCONFORMING
6 USES

7 Sec. ____ . Section 335.3, subsection 2, Code 2022, is amended
8 to read as follows:

9 2. a. When Except as provided in paragraph "b", when there
10 is a replacement of a preexisting manufactured, modular, or
11 mobile home with another any other manufactured, modular, or
12 mobile home containing no more than the original number of
13 dwelling units, or a replacement of a preexisting site-built
14 dwelling unit with a manufactured, modular, or mobile home or
15 site-built dwelling unit, within a manufactured home community
16 or a mobile home park, the board of supervisors shall not
17 adopt or enforce any ordinance, regulation, or restriction,
18 or impose any conditions on the replacement home, home site
19 upon which the home sits, or the owner's property that were not
20 required of the preexisting home, home site, or property, that
21 would prevent the continuance of the property owner's lawful
22 nonconforming use that had existed relating to the preexisting
23 home unless any of the following apply:, home site upon which
24 the home sat, or the owner's property.

25 b. Paragraph "a" does not apply if any of the following
26 conditions exist:

27 a. (1) A discontinuance is necessary for The replacement of
28 the particular home would result in an increased risk to the
29 safety of life or property.

30 b. (2) The property owner has discontinued and abandoned
31 the nonconforming use has been discontinued for the period
32 of time established by ordinance, unless such discontinuance
33 is caused by circumstances outside the control of the
34 property owner. The period of time so established shall be
35 not less than one year. For purposes of this subparagraph,

1 circumstances outside the control of the property owner
2 include floods, fires, destructive thunderstorm events such
3 as derechos and tornadoes, and similar catastrophic events
4 causing widespread or localized severe property damage. For
5 purposes of this subparagraph, a property owner shall not be
6 considered to have discontinued and abandoned the nonconforming
7 use if the property owner demonstrates that the applicable home
8 site continues to be available for use as a home site for a
9 replacement home.

10 ~~e.~~ (3) The replacement results in the overall nature and
11 character of the present use being substantially or entirely
12 different from the original lawful preexisting nonconforming
13 use.

14 ~~d.~~ (4) The replacement results in an obstruction to a
15 shared driveway or shared sidewalk providing vehicular or
16 pedestrian access to other homes and uses unless the property
17 owner makes modifications to such shared driveway or sidewalk
18 that extinguishes such obstruction or the effects of such
19 obstruction.

20 Sec. _____. Section 414.1, subsection 1, paragraph c, Code
21 2022, is amended to read as follows:

22 c. (1) ~~When~~ Except when provided in subparagraph (2), when
23 there is a replacement of a preexisting manufactured, modular,
24 or mobile home with another any other manufactured, modular,
25 or mobile home containing no more than the original number of
26 dwelling units, or a replacement of a preexisting site-built
27 dwelling unit with a manufactured, modular, or mobile home or
28 site-built dwelling unit, within a manufactured home community
29 or a mobile home park, the city shall not adopt or enforce any
30 ordinance, regulation, or restriction, or impose any conditions
31 on the replacement home, home site upon which the home
32 sits, or the owner's property that were not required of the
33 preexisting home, home site, or property, that would prevent
34 the continuance of the property owner's lawful nonconforming
35 use that had existed relating to the preexisting home unless

1 ~~any of the following apply~~, home site upon which the home sat,
2 or the owner's property.

3 (2) Subparagraph (1) does not apply if any of the following
4 conditions exist:

5 ~~(1)~~ (a) ~~A discontinuance is necessary for~~ The replacement
6 of the particular home would result in an increased risk to the
7 safety of life or property.

8 ~~(2)~~ (b) The property owner has discontinued and abandoned
9 the nonconforming use has been discontinued for the period of
10 time established by ordinance, unless such discontinuance is
11 caused by circumstances outside the control of the property
12 owner. The period of time so established shall be not less
13 than one year. For purposes of this subparagraph division,
14 circumstances outside the control of the property owner
15 include floods, fires, destructive thunderstorm events such as
16 derechos and tornadoes, and similar catastrophic events causing
17 widespread or localized severe property damage. For purposes
18 of this subparagraph division, a property owner shall not be
19 considered to have discontinued and abandoned the nonconforming
20 use if the property owner demonstrates that the applicable home
21 site continues to be available for use as a home site for a
22 replacement home.

23 ~~(3)~~ (c) The replacement results in the overall nature and
24 character of the present use being substantially or entirely
25 different from the original lawful preexisting nonconforming
26 use.

27 ~~(4)~~ (d) The replacement results in an obstruction to a
28 shared driveway or shared sidewalk providing vehicular or
29 pedestrian access to other homes and uses unless the property
30 owner makes modifications to such shared driveway or sidewalk
31 that extinguishes such obstruction or the effects of such
32 obstruction.>

33 2. Title page, lines 5 and 6, by striking <the repeal of the
34 manufactured home community and mobile home tax,> and inserting
35 <regulation by counties and cities of continuing nonconforming

H-8309 (Continued)

1 uses of manufactured, modular, and mobile homes,>
2 3. By renumbering as necessary.

By LOHSE of Polk

H-8309 FILED MARCH 30, 2022

HOUSE FILE 2571

H-8305

1 Amend the amendment, H-8272, to House File 2571, as follows:

2 1. Page 1, by striking lines 2 through 35 and inserting:

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

5 <Section 1. Section 123.136, subsection 1, Code 2022, is
6 amended to read as follows:

7 1. In addition to the annual permit fee to be paid by
8 all class "A" beer permittees under this chapter there shall
9 be levied and collected from the permittees on all beer
10 manufactured for sale or sold in this state at wholesale and
11 on all beer imported into this state for sale at wholesale and
12 sold in this state at wholesale, and from special class "A"
13 beer permittees on all beer manufactured for consumption on the
14 premises and on all beer sold at retail at the manufacturing
15 premises for consumption off the premises pursuant to section
16 123.130, subsection 4, a tax of ~~five and eighty-nine~~ four and
17 three hundredths dollars for every barrel containing thirty-one
18 gallons, and at a like rate for any other quantity or for the
19 fractional part of a barrel. However, no tax shall be levied
20 or collected on beer shipped outside this state by a class "A"
21 beer permittee or special class "A" beer permittee or on beer
22 sold to a class "A" beer permittee by a special class "A" beer
23 permittee or another class "A" beer permittee.

24 Sec. 2. Section 455C.1, subsections 1 and 6, Code 2022, are
25 amended to read as follows:

26 1. "*Beverage*" means wine as defined in section 123.3,
27 subsection 54, alcoholic liquor as defined in section 123.3,
28 subsection 5, beer as defined in section 123.3, subsection
29 7, high alcoholic content beer as defined in section 123.3,
30 subsection 22, canned cocktail as defined in section 123.3,
31 subsection 11, mineral water, soda water, and similar
32 carbonated soft drinks in liquid form and intended for human
33 consumption.

34 6. "*Dealer agent*" means a person who solicits or picks
35 up empty beverage containers from a participating dealer for

1 the purpose of returning the empty beverage containers to a
2 distributor or manufacturer.

3 Sec. 3. Section 455C.1, Code 2022, is amended by adding the
4 following new subsections:

5 NEW SUBSECTION. 11A. "*Mobile redemption system*" means a
6 redemption center location at which a consumer may return empty
7 beverage containers on which a refund value has been paid that
8 uses innovative technology to process empty beverage containers
9 and return the amount of the refund value to consumers.

10 NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer
11 who accepts the return of empty beverage containers from a
12 consumer.

13 Sec. 4. Section 455C.2, Code 2022, is amended to read as
14 follows:

15 **455C.2 Refund values.**

16 1. A refund value of ~~not less than~~ five cents shall be paid
17 by the consumer on each beverage container sold in this state
18 by a dealer for consumption off the premises. Upon return of
19 the empty beverage container upon which a refund value has
20 been paid to ~~the~~ a participating dealer or person operating
21 a redemption center and acceptance of the empty beverage
22 container by the participating dealer or person operating a
23 redemption center, the participating dealer or person operating
24 a redemption center shall return the amount of the refund
25 value to the consumer within a reasonable time not to exceed
26 ten days. A person who attempts to redeem two thousand or
27 more empty beverage containers in one transaction with a
28 participating dealer or a redemption center shall provide proof
29 of residency prior to receiving refund value.

30 2. In addition to the refund value provided in subsection
31 ~~1 of this section, a dealer, or person operating a redemption~~
32 ~~center who redeems empty beverage containers or a dealer agent~~
33 ~~shall be reimbursed by~~ the distributor required to accept
34 the empty beverage containers under section 455C.3 shall
35 provide reimbursement in an amount which that is one cent per

1 container, except that the reimbursement amount shall be three
2 cents per container for empty beverage containers accepted by a
3 redemption center. A dealer, dealer agent, or person operating
4 a redemption center may compact empty metal beverage containers
5 with the approval of the distributor required to accept the
6 containers.

7 Sec. 5. Section 455C.3, subsections 1, 2, and 4, Code 2022,
8 are amended to read as follows:

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

14 2. A distributor shall accept and pick up from a
15 participating dealer served by the distributor or a redemption
16 ~~center for a dealer served by the distributor~~ in the
17 distributor's geographic territory at least weekly, or when the
18 distributor delivers the beverage product if deliveries are
19 less frequent than weekly, any empty beverage container of the
20 kind, size, and brand sold by the distributor, and shall pay
21 to the participating dealer or ~~person operating a~~ redemption
22 center the refund value of a beverage container and the
23 reimbursement as provided under section 455C.2 within one week
24 following pickup of the containers or when the participating
25 dealer or redemption center normally pays the distributor for
26 the deposit on beverage products purchased from the distributor
27 if less frequent than weekly. A distributor or employee or
28 agent of a distributor is not in violation of this subsection
29 if a redemption center is closed when the distributor attempts
30 to make a regular delivery or a regular pickup of empty
31 beverage containers. This subsection does not apply to a
32 distributor selling alcoholic liquor to the alcoholic beverages
33 division of the department of commerce.

34 4. A distributor shall accept from a dealer agent any empty
35 beverage container of the kind, size, and brand sold by the

1 distributor and ~~which~~ that was picked up by the dealer agent
2 from a participating dealer within the geographic territory
3 served by the distributor and the distributor shall pay the
4 dealer agent the refund value of the empty beverage container
5 and the reimbursement as provided in section 455C.2.

6 Sec. 6. Section 455C.4, Code 2022, is amended to read as
7 follows:

8 **455C.4 Refusal to accept containers.**

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

14 2. ~~A~~ On and after July 1, 2023, a dealer may refuse to
15 accept and to pay the refund value of any empty beverage
16 container ~~if the place of business of the dealer and the kind~~
17 ~~and brand of empty beverage containers are included in an order~~
18 ~~of the department approving a redemption center under section~~
19 ~~455C.6.~~

20 ~~3. A dealer or a distributor may refuse to accept and to pay~~
21 ~~the refund value of an empty wine or alcoholic liquor container~~
22 ~~which is marked to indicate that it was sold by a state liquor~~
23 ~~store. The alcoholic beverages division shall not reimburse~~
24 ~~a dealer or a distributor the refund value on an empty wine or~~
25 ~~alcoholic liquor container which is marked to indicate that the~~
26 ~~container was sold by a state liquor store.~~

27 ~~4.~~ 3. A class "E" liquor control licensee may refuse to
28 accept and to pay the refund value on an empty alcoholic liquor
29 container from a participating dealer or a redemption center
30 or from a person acting on behalf of or who has received empty
31 alcoholic liquor containers from a participating dealer or a
32 redemption center.

33 ~~5.~~ 4. A manufacturer or distributor may refuse to accept
34 and to pay the refund value and reimbursement as provided in
35 section 455C.2 on any empty beverage container that was picked

1 up by a dealer agent ~~from a dealer~~ outside the geographic
2 territory served by the manufacturer or distributor.

3 Sec. 7. Section 455C.5, subsection 1, Code 2022, is amended
4 to read as follows:

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

12 b. On and after November 15, 2023, the department of revenue
13 shall require the registration of the universal product code
14 for each beverage container using a method determined by the
15 department of revenue.

16 Sec. 8. Section 455C.6, subsections 1, 2, and 5, Code 2022,
17 are amended to read as follows:

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

24 2. ~~An application for approval of a~~ A person operating a
25 redemption center shall file written notice of the operation
26 of the redemption center shall be filed with the department.
27 ~~The application notice~~ shall state the name and address of the
28 person responsible for the establishment and operation of the
29 redemption center, the kind and brand names of the beverage
30 containers which will be accepted at the redemption center,
31 and the names and addresses of the dealers to be served by
32 the redemption center. The application notice shall contain
33 such other information as the director may reasonably require.
34 However, on and after July 1, 2023, a redemption center does
35 not need to provide in its notice the names and addresses of

1 dealers to be served by the redemption center.

2 5. All ~~approved~~ redemption centers shall meet applicable
3 health standards.

4 Sec. 9. Section 455C.6, subsections 3 and 4, Code 2022, are
5 amended by striking the subsections.

6 Sec. 10. Section 455C.6, Code 2022, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 6. A mobile redemption system shall
9 not be considered to be in violation of any county or city
10 ordinance that would otherwise limit the operation of the
11 mobile redemption system as long as the mobile redemption
12 system operates in a location that is not zoned primarily for
13 residential purposes.

14 Sec. 11. Section 455C.12, subsections 2 and 3, Code 2022,
15 are amended to read as follows:

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

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

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

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

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

35 Sec. 12. Section 455C.12, Code 2022, is amended by adding

1 the following new subsections:

2 NEW SUBSECTION. 6. A person who attempts to redeem beverage
3 containers obtained outside the state commits a serious
4 misdemeanor and is also subject to a civil penalty of five
5 thousand dollars per violation.

6 NEW SUBSECTION. 7. Except as provided in subsection 6,
7 a person who violates any provision of this chapter shall
8 be subject to a civil penalty of two thousand dollars per
9 violation, which shall be assessed and collected in the same
10 manner as provided in section 455B.109. Any civil penalty
11 collected under this chapter shall be deposited in the general
12 fund of the state.

13 **Sec. 13. NEW SECTION. 455C.12A Administrative enforcement**
14 **— compliance orders.**

15 The director may issue any order necessary to secure
16 compliance with or prevent a violation of the provisions of
17 this chapter or any rule adopted or permit or order issued
18 pursuant to this chapter. The person to whom such compliance
19 order is issued may cause to be commenced a contested case
20 within the meaning of chapter 17A by filing within thirty
21 days a notice of appeal to the commission. On appeal, the
22 commission may affirm, modify, or vacate the order of the
23 director.

24 **Sec. 14. NEW SECTION. 455C.12B Judicial review.**

25 Judicial review of any order or other action of the
26 commission or director may be sought in accordance with the
27 terms of chapter 17A. Notwithstanding the terms of chapter
28 17A, petitions for judicial review may be filed in the district
29 court of the county in which the alleged offense was committed.

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

32 1. The attorney general, on request of the department, shall
33 institute any legal proceedings necessary to obtain compliance
34 with an order of the commission or the director, including
35 proceedings for a temporary injunction, or prosecuting any

1 person for a violation of an order of the commission or the
2 director, the provisions of this chapter, or any rules adopted
3 or permit or order issued pursuant to this chapter.

4 2. Any person who violates any order issued pursuant to
5 section 455C.12A shall be subject to a civil penalty not to
6 exceed two thousand dollars for each day of such violation.

7 Sec. 16. Section 455C.13, Code 2022, is amended to read as
8 follows:

9 **455C.13 ~~Distributors'~~ Collection and disposal agreements**
10 **authorized.**

11 1. A distributor, dealer, or redemption center may enter
12 into a contract or agreement with any other distributor,
13 manufacturer, or person for the purpose of collecting or ~~paying~~
14 ~~the refund value on, or disposing of,~~ beverage containers as
15 provided in this chapter.

16 2. For purposes of this chapter, any contracts entered into
17 pursuant to this section for the collection or disposal of
18 empty beverage containers shall not be deemed to interfere with
19 the refund value pursuant to section 455C.2.

20 Sec. 17. Section 455C.16, Code 2022, is amended to read as
21 follows:

22 **455C.16 Beverage containers — disposal at sanitary landfill**
23 **prohibited.**

24 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
25 containers by a ~~dealer, distributor, or manufacturer, or~~
26 ~~person operating a redemption center, in a sanitary landfill,~~
27 ~~is prohibited.~~ Beginning September 1, 1992, including the
28 final disposal of beverage containers that used to contain
29 alcoholic liquor as defined in section 123.3, subsection 5,
30 by a participating dealer, distributor, ~~or~~ manufacturer, or
31 ~~person operating a redemption center in a sanitary landfill,~~
32 is prohibited.

33 Sec. 18. NEW SECTION. **455C.18 Unclaimed refund value and**
34 **handling fees.**

35 Any amount of refund value or handling fees possessed by a

H-8305 (Continued)

1 distributor after the distributor has made payments required
2 pursuant to this chapter shall be considered the property of
3 the distributor.

4 Sec. 19. REPEAL. Sections 455C.7 and 455C.10, Code 2022,
5 are repealed.

6 Sec. 20. EFFECTIVE DATE. The section of this Act amending
7 section 123.136 takes effect July 1, 2023.>

8 2. Title page, by striking lines 1 through 5 and inserting
9 <An Act relating to beverages, including the barrel tax and the
10 acceptance of beverage containers for refund value, providing
11 penalties, and including effective date provisions.>>

By LOHSE of Polk

H-8305 FILED MARCH 30, 2022

SENATE FILE 348

H-8308

1 Amend the amendment, H-8269, to Senate File 348, as amended,
2 passed, and reprinted by the Senate, as follows:

3 1. By striking page 1, line 5, through page 3, line 19, and
4 inserting:

5 <DIVISION I

6 MINOR GUARDIANSHIPS

7 Section 1. Section 232.3, subsection 1, Code 2022, is
8 amended to read as follows:

9 1. During the pendency of an action under this chapter, a
10 party to the action is estopped from litigating concurrently
11 the custody, guardianship, or placement of a child who is the
12 subject of the action, in a court other than the juvenile court
13 with jurisdiction of the pending action under this chapter. A
14 district judge, district associate judge, juvenile court judge,
15 magistrate, or judicial hospitalization referee, upon notice
16 of the pendency of an action under this chapter, shall not
17 issue an order, finding, or decision relating to the custody,
18 guardianship, or placement of the child who is the subject of
19 the action, under any law, including but not limited to chapter
20 232D, 598, or 598B, or 633.

21 Sec. 2. Section 232.3, Code 2022, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 3. An action which is pending under chapter
24 232D prior to an action being brought under this chapter shall
25 be stayed by the court in the chapter 232D action unless the
26 court follows the procedures in subsection 2 and authorizes a
27 party to the action to litigate a specific issue under this
28 chapter.

29 Sec. 3. Section 232D.103, Code 2022, is amended to read as
30 follows:

31 **232D.103 Jurisdiction.**

32 The juvenile court has exclusive jurisdiction in a
33 guardianship proceeding concerning a minor who is alleged to be
34 in need of a guardianship and guardianships of minors.

35 Sec. 4. NEW SECTION. **232D.107 Confidentiality.**

1 Official juvenile court records in guardianship proceedings
2 shall be confidential and are not public records. Confidential
3 records may be inspected and their contents shall be disclosed
4 to the following without court order, provided that a person
5 or entity who inspects or receives a confidential record under
6 this section shall not disclose the confidential record or its
7 contents unless required by law:

8 1. The judge and professional court staff.

9 2. The minor and the minor's counsel.

10 3. The minor's parent, guardian or custodian, court
11 visitor, and any counsel representing such person.

12 Sec. 5. Section 232D.301, subsection 2, paragraph d,
13 subparagraph (3), Code 2022, is amended to read as follows:

14 (3) Any adult who has had the primary care of the minor or
15 with whom the minor has lived for ~~at least~~ any time during the
16 six months prior to immediately preceding the filing of the
17 petition.

18 Sec. 6. Section 232D.301, subsection 4, Code 2022, is
19 amended to read as follows:

20 4. The petition shall state whether a limited guardianship
21 is appropriate, and whether a conservatorship for the minor is
22 already in existence.

23 Sec. 7. Section 232D.302, subsection 2, Code 2022, is
24 amended to read as follows:

25 2. Notice shall be served upon the minor's known parents
26 listed in the petition in accordance with the rules of civil
27 procedure. If the parent has not filed a consent to the
28 appointment of a guardian, the notice shall inform any parent
29 named in the petition that the parent may be entitled to
30 representation under the conditions described in section
31 232D.304.

32 Sec. 8. Section 232D.305, subsection 1, Code 2022, is
33 amended to read as follows:

34 1. The court may appoint a court visitor for the minor. A
35 person is qualified to serve as a court visitor if the court

1 determines the person has demonstrated sufficient knowledge of
2 guardianships to adequately perform the duties in subsection 3.

3 Sec. 9. Section 232D.305, subsection 3, paragraph b, Code
4 2022, is amended to read as follows:

5 b. Explaining to the minor, if the minor's age is
6 appropriate, the substance of the petition, the purpose and
7 effect of the guardianship proceeding, ~~the rights of the~~
8 ~~minor at the hearing,~~ and the general powers and duties of a
9 guardian.

10 Sec. 10. Section 232D.305, Code 2022, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 6. The court may order a court visitor to
13 continue to serve if the court determines continued service
14 would be in the best interest of the minor. If the court
15 continues the services of the court visitor, the court may
16 limit the direct duties of the court visitor as the court deems
17 necessary in which case the court visitor shall thereafter
18 continue to serve until discharged by the court. If the
19 court does not order the court visitor to continue, the order
20 appointing the guardian shall discharge the court visitor.

21 Sec. 11. Section 232D.306, Code 2022, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 4. A hearing on the petition may be
24 recorded if a court reporter is not used.

25 Sec. 12. Section 232D.307, subsection 1, Code 2022, is
26 amended to read as follows:

27 1. The court shall request criminal record checks and checks
28 of the child abuse, dependent adult abuse, and sex offender
29 registries in this state for all proposed guardians other than
30 financial institutions with Iowa trust powers unless a proposed
31 guardian has undergone the required background checks in this
32 section within the ~~twelve~~ six months prior to the filing of
33 a petition and the background check has been provided to the
34 court.

35 Sec. 13. Section 232D.401, subsection 1, Code 2022, is

1 amended to read as follows:

2 1. The order by the court appointing a guardian for a minor
3 shall state the basis for the order and the date on which the
4 first reporting period for the guardianship will end.

5 Sec. 14. Section 232D.401, subsection 3, unnumbered
6 paragraph 1, Code 2022, is amended to read as follows:

7 An order by the court appointing a guardian for a minor shall
8 state the powers granted to the guardian until such time as the
9 guardian files an initial care plan and such plan is approved
10 by the court as required by section 232D.501, subsection 4.

11 Except as otherwise limited by ~~court~~ an order appointing a
12 guardian for a minor, the court may grant the guardian the
13 following powers, ~~which may be exercised without prior court~~
14 ~~approval~~:

15 Sec. 15. Section 232D.501, subsection 1, paragraph a, Code
16 2022, is amended by adding the following new subparagraph:

17 NEW SUBPARAGRAPH. (2A) The guardian's plan, if any, for
18 applying for and receiving funds and benefits payable for the
19 support of the minor.

20 Sec. 16. Section 232D.501, subsection 1, paragraph b, Code
21 2022, is amended by adding the following new subparagraphs:

22 NEW SUBPARAGRAPH. (11) The results of the guardian's
23 efforts to apply for funds or benefits for the minor, and
24 an accounting for the use of such funds or benefits by the
25 guardian.

26 NEW SUBPARAGRAPH. (12) Any other information the guardian
27 deems necessary for the court to consider.

28 Sec. 17. Section 232D.501, Code 2022, is amended by adding
29 the following new subsections:

30 NEW SUBSECTION. 5. The guardian shall provide a copy of the
31 verified initial care plan and verified annual report required
32 by this section to the protected person, the protected person's
33 attorney, if any, and court visitor, if any.

34 NEW SUBSECTION. 6. The court, for good cause, may extend
35 the deadline for filing required reports. Required reports of

1 a guardian which are not timely filed and which are delinquent,
2 and for which no extension for filing has been granted by the
3 court, shall be administered in the same manner as provided in
4 section 633.32.

5

DIVISION II

6

ADULT GUARDIANSHIPS AND MINOR AND ADULT CONSERVATORSHIPS

7

Sec. 18. Section 235B.6, subsection 2, paragraph d, Code

8

2022, is amended by adding the following new subparagraph:

9

NEW SUBPARAGRAPH. (7) To a district court conducting

10

checks of the dependent adult abuse registry for all proposed

11

guardians and conservators pursuant to section 633.564.

12

Sec. 19. Section 633.556, subsections 4, 5, and 8, Code

13

2022, are amended to read as follows:

14

4. The petition shall list the name and address of the

15

~~petitioner and the petitioner's relationship to the respondent~~

16

following:

17

a. The respondent.

18

b. The petitioner and the petitioner's relationship to the

19

respondent.

20

c. The proposed guardian or conservator and the reason the

21

proposed guardian or conservator should be selected.

22

5. The petition shall list the name and address, to the

23

extent known, of the following:

24

~~a. The name and address of the proposed guardian and the~~

25

~~reason the proposed guardian should be selected.~~

26

~~b.~~ a. Any spouse of the respondent.

27

~~c.~~ b. Any adult children of the respondent.

28

~~d.~~ c. Any parents of the respondent.

29

~~e.~~ d. Any adult, who has had the primary care of the

30

respondent or with whom the respondent has lived for at least

31

any time during the six months prior to immediately preceding

32

the filing of the petition, or any institution or facility

33

where the respondent has resided ~~for at least six months prior~~

34

to any time during the six months immediately preceding the

35

filing of the petition.

1 ~~f.~~ e. Any legal representative or representative payee of
2 the respondent.

3 ~~g.~~ f. Any person designated as an attorney in fact in a
4 durable power of attorney for health care which is valid under
5 chapter 144B, or any person designated as an agent in a durable
6 power of attorney which is valid under chapter 633B.

7 8. The petition shall provide a brief description of
8 the respondent's alleged functional limitations that make
9 the respondent unable to communicate or carry out important
10 decisions concerning the respondent's financial affairs if
11 the petition is for appointment of a conservator for an adult
12 respondent, or unable to care for the respondent's safety or
13 provide for necessities such as food, shelter, clothing, or
14 medical care without which physical injury or illness may occur
15 if the petition requests the appointment of a guardian.

16 Sec. 20. Section 633.560, subsection 3, Code 2022, is
17 amended to read as follows:

18 3. The court shall require the proposed guardian or
19 conservator to attend the hearing on the petition but the court
20 may excuse the proposed guardian's or conservator's attendance
21 for good cause shown.

22 Sec. 21. Section 633.561, subsection 6, Code 2022, is
23 amended to read as follows:

24 6. If the court determines that it would be in the
25 respondent's best interest to have legal representation
26 with respect to any further proceedings in a guardianship
27 or conservatorship, the court may appoint an attorney to
28 represent the respondent at the expense of the respondent or
29 the respondent's estate, or if the respondent is indigent the
30 cost of the court appointed attorney shall be assessed against
31 the county in which the proceedings are pending.

32 Sec. 22. Section 633.562, subsection 1, Code 2022, is
33 amended to read as follows:

34 1. If the court determines that the appointment of a court
35 visitor would be in the best interest of the respondent, the

1 court shall appoint a court visitor at the expense of the
2 respondent or the respondent's estate, or, if the respondent
3 is indigent, the cost of the court visitor shall be assessed
4 against the county in which the proceedings are pending. The
5 court may appoint any qualified person as a court visitor in
6 a guardianship or conservatorship proceeding. A person is
7 qualified to serve in this capacity if the court determines the
8 person has demonstrated sufficient knowledge of guardianships
9 or conservatorships to adequately perform the duties in
10 subsection 3.

11 Sec. 23. Section 633.562, subsection 3, paragraph b, Code
12 2022, is amended to read as follows:

13 b. Explaining to the respondent the substance of the
14 petition, the purpose and effect of the guardianship or
15 conservatorship proceeding, ~~the rights of the respondent at~~
16 ~~the hearing,~~ and the general powers and duties of a guardian
17 or conservator.

18 Sec. 24. Section 633.562, Code 2022, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 7. A court visitor shall be discharged
21 from all further duties upon appointment of a guardian or
22 conservator, unless otherwise ordered by the court. The court
23 may order a court visitor to continue to serve if the court
24 determines continued service would be in the best interest of
25 the protected person. If the court continues the service of
26 the court visitor, the court may limit the direct duties of the
27 court visitor as the court deems necessary. The court visitor
28 shall thereafter continue to serve until discharged by the
29 court.

30 Sec. 25. Section 633.563, subsection 1, Code 2022, is
31 amended by adding the following new paragraph:

32 NEW PARAGRAPH. c. The petition is for opening a
33 conservatorship for a minor.

34 Sec. 26. Section 633.564, subsection 1, Code 2022, is
35 amended to read as follows:

1 1. The court shall request criminal record checks and
2 checks of the child abuse, dependent adult abuse, and sexual
3 offender registries in this state for all proposed guardians
4 and conservators, other than financial institutions with Iowa
5 trust powers, unless a proposed guardian or conservator has
6 undergone the required background checks required by this
7 section within the six months prior to the filing of a petition
8 and the background check has been provided to the court.

9 Sec. 27. Section 633.569, Code 2022, is amended to read as
10 follows:

11 **633.569 Emergency appointment of temporary guardian or**
12 **conservator.**

13 1. A person authorized to file a petition under section
14 ~~633.552, 633.553, or 633.554~~ 633.556 or 633.557 may file an
15 application for the emergency appointment of a temporary
16 guardian or conservator.

17 2. Such application shall state all of the following:

18 a. The name and address of the respondent.

19 ob. The name and address of the petitioner and the
20 petitioner's relationship to the respondent.

21 b. The name and address of the proposed guardian or
22 conservator and the reason the proposed guardian or conservator
23 should be selected.

24 oc. The names and addresses, to the extent known, of any
25 other persons who must be named in the petition for appointment
26 of a guardian or conservator under section 633.556 or 633.557.

27 c. The reason the emergency appointment of a temporary
28 guardian or conservator is sought.

29 3. The court may enter an ex parte order appointing a
30 temporary guardian or conservator on an emergency basis under
31 this section if the court finds that all of the following
32 conditions are met:

33 a. There is not sufficient time to file a petition
34 and hold a hearing pursuant to section ~~633.552, 633.553,~~
35 ~~or 633.554~~ 633.556, 633.557, or 633.560.

1 *b.* The appointment of a temporary guardian or conservator
2 is necessary to avoid immediate or irreparable harm to the
3 respondent before a hearing with notice to the respondent can
4 be held.

5 *c.* There is reason to believe that the basis for appointment
6 of guardian or conservator exists under section ~~633.552,~~
7 ~~633.553, or 633.554~~ 633.556 or 633.557.

8 4. Notice of a petition for the appointment of a temporary
9 guardian or conservator and the issuance of an ex parte
10 order appointing a temporary guardian or conservator shall be
11 provided to the respondent, the respondent's attorney, and any
12 other person the court determines should receive notice.

13 5. Upon the issuance of an ex parte order, if the respondent
14 is an adult, the respondent may file a request for a hearing.
15 If the respondent is a minor, the respondent, a parent having
16 legal custody of the respondent, or any other person having
17 legal custody of the respondent may file a written request for
18 a hearing. Such hearing shall be held no later than seven days
19 after the filing of a written request.

20 6. The powers of the temporary guardian or conservator
21 set forth in the order of the court shall be limited to those
22 necessary to address the emergency situation requiring the
23 appointment of a temporary guardian or conservator.

24 7. The temporary guardianship or conservatorship shall
25 terminate within thirty days after the order is issued.

26 8. The court may order an extension of the temporary
27 guardianship or conservatorship for good cause shown. Prior
28 to or contemporaneously with the filing for an application for
29 the extension of time, the guardian or conservator shall file a
30 report with the court setting forth all of the following:

31 *a.* All actions conducted by the guardian or conservator on
32 behalf of the protected person from the time of the initial
33 appointment of the guardian up to the time of the report.

34 *b.* All actions that the guardian or conservator plans to
35 conduct on behalf of the protected person during the extension

1 period.

2 9. The temporary guardian or conservator shall submit any
3 other report the court requires.

4 Sec. 28. Section 633.570, subsections 1 and 2, Code 2022,
5 are amended to read as follows:

6 1. In a proceeding for the appointment of a guardian, the
7 respondent shall be given written notice which advises the
8 respondent ~~of the powers that~~ the court may grant a guardian
9 ~~may exercise without court approval pursuant to the powers set~~
10 out in section 633.635, subsection 2, and the powers that the
11 ~~guardian may exercise only with court approval pursuant to set~~
12 out in section 633.635, subsection 3.

13 2. In a proceeding for the appointment of a conservator,
14 the respondent shall be given written notice which advises the
15 respondent ~~of the powers that~~ the court may grant a conservator
16 ~~may exercise without court approval pursuant to section 633.646~~
17 ~~and the powers that the guardian may exercise only with court~~
18 ~~approval pursuant to section 633.647~~ the powers set out in
19 sections 633.641 and 633.642.

20 Sec. 29. Section 633.635, subsection 1, Code 2022, is
21 amended to read as follows:

22 1. The order by the court appointing a guardian shall state
23 the factual basis for the guardianship pursuant to section
24 633.552 and the date on which the first reporting period for
25 the guardianship shall end.

26 Sec. 30. Section 633.635, subsection 2, unnumbered
27 paragraph 1, Code 2022, is amended to read as follows:

28 ~~Based upon the evidence produced at the hearing~~ An order by
29 the court appointing a guardian for an adult shall state the
30 powers granted to the guardian until such time as the guardian
31 files an initial care plan and such plan is approved by the
32 court as required by section 633.669. Except as otherwise
33 limited by an order appointing a guardian for an adult, the
34 court may grant a guardian the following powers ~~and duties with~~
35 ~~respect to a protected person which may be exercised without~~

1 ~~prior court approval:~~

2 Sec. 31. Section 633.635, subsection 3, unnumbered
3 paragraph 1, Code 2022, is amended to read as follows:

4 A Notwithstanding subsection 2, a guardian may be granted
5 the following powers which may only be exercised upon court
6 approval:

7 Sec. 32. Section 633.641, subsection 3, Code 2022, is
8 amended to read as follows:

9 3. If the court appoints a conservator for a protected
10 person who has previously executed a valid power of attorney
11 under chapter 633B, the conservator shall act in accordance
12 with the applicable provisions of chapter 633B the power of
13 attorney is suspended unless the power of attorney provides
14 otherwise or unless the court determines the power of attorney
15 should continue. If the power of attorney continues, the agent
16 is accountable to the conservator as well as to the protected
17 person. The power of attorney shall be reinstated upon
18 termination of the conservatorship as a result of the protected
19 person regaining capacity.

20 Sec. 33. Section 633.642, Code 2022, is amended by striking
21 the section and inserting in lieu thereof the following:

22 **633.642 Powers of conservator.**

23 1. An order by the court appointing a conservator shall
24 state the basis for the conservatorship pursuant to section
25 633.553 or section 633.554.

26 2. Upon appointment by the court, and until such time as the
27 conservator files an initial financial management plan and such
28 plan is approved by the court as required by section 633.670,
29 subsection 1, a conservator has the authority to exercise all
30 powers applicable to fiduciaries pursuant to sections 633.63
31 through 633.162, unless expressly modified by the court.

32 3. In the order approving an initial financial management
33 plan or an annual report, the court shall approve and set forth
34 the specific powers of a conservator, which may be thereafter
35 exercised by the conservator until further court order. Except

1 as otherwise ordered by the court, a conservator must give
2 notice to persons entitled to notice and receive specific prior
3 authorization by the court before the conservator may take any
4 other action on behalf of the protected person.

5 4. Upon the filing of an appropriate oath by the
6 conservator, the clerk of court shall issue letters of
7 appointment. A copy of the initial order of the court shall be
8 attached to the letters of appointment.

9 Sec. 34. Section 633.669, Code 2022, is amended to read as
10 follows:

11 **633.669 ~~Reporting requirements — assistance~~ Reports by clerk**
12 **guardians.**

13 1. The court shall assign a guardianship created under
14 this chapter, and may reassign as necessary in the court's
15 discretion, to one of following reporting tiers:

16 a. Tier I: A guardian assigned a tier I guardianship shall
17 file with the court a verified annual report which shall not
18 be waived by the court. The annual report shall include all of
19 the following:

20 (1) The current mental and physical condition of the
21 protected person.

22 (2) The present living arrangement of the protected person,
23 including a description of each residence where the protected
24 person has resided during the reporting period.

25 (3) A summary of the medical, educational, vocational and
26 technical, and other professional services provided for the
27 protected person.

28 (4) A description of the guardian's visits with and
29 activities on behalf of the protected person.

30 (5) A recommendation as to the need for continued
31 guardianship.

32 (6) Other information requested by the court or useful in
33 the opinion of the guardian.

34 b. A guardian appointed by the court under this chapter
35 assigned a tier II guardianship shall file with the court the

1 following ~~written~~ verified reports which shall not be waived
2 by the court:

3 ~~a-~~ (1) An initial care plan filed within sixty days of
4 appointment. The information in the initial care plan shall
5 include but not be limited to the following information:

6 ~~(1)~~ (a) The current residence of the protected person
7 and the guardian's plan for the protected person's living
8 arrangements.

9 ~~(2)~~ (b) The guardian's plan for payment of the protected
10 person's living expenses and other expenses.

11 ~~(3)~~ (c) The protected person's health status and health
12 care needs, and the guardian's plan for meeting the protected
13 person's needs for medical, dental, and other health care
14 needs.

15 ~~(3A)~~ (d) Whether the protected person has a living will or
16 health care power of attorney.

17 ~~(4)~~ (e) If applicable, the protected person's need
18 for other professional services for mental, behavioral,
19 or emotional health, and the guardian's plan for other
20 professional services needed by the protected person.

21 ~~(5)~~ (f) If applicable, the protected person's employment
22 status, the protected person's need for educational, training,
23 or vocational services, and the guardian's plan for meeting the
24 educational, training, and vocational needs of the protected
25 person.

26 ~~(6)~~ (g) If applicable, the guardian's plan for facilitating
27 the participation of the protected person in social activities.

28 ~~(7)~~ (h) The guardian's plan for facilitating contacts
29 between the protected person and the protected person's family
30 members and other ~~significant~~ persons significant in the life
31 of the protected person.

32 ~~(8)~~ (i) The guardian's plan for contact with, and
33 activities on behalf of, the protected person.

34 (j) The powers that the guardian requests to carry out the
35 initial care plan.

1 (k) The guardian shall file an amended plan when there
2 has been a significant change in the circumstances or the
3 guardian seeks to deviate significantly from the plan. The
4 guardian must obtain court approval of the amended plan before
5 implementing any of its provisions.

6 ~~b.~~ (2) An annual report, filed within sixty days of the
7 close of the reporting period, ~~unless the court otherwise~~
8 ~~orders on good cause shown.~~ The information in the annual
9 report shall include but not be limited to the following
10 information:

11 ~~(1)~~ (a) The current living arrangements of the protected
12 person.

13 ~~(2)~~ (b) The sources of payment for the protected person's
14 living expenses and other expenses.

15 ~~(3)~~ (c) A description, if applicable, of the following:

16 ~~(a)~~ (i) The protected person's ~~physical and mental health~~
17 status and the ~~medical, dental, and other professional health~~
18 services provided to the protected person.

19 ~~(b)~~ (ii) If applicable, the protected person's employment
20 status and the educational, training, and vocational services
21 provided to the protected person.

22 (iii) The guardian's facilitation of the participation of
23 the protected person in social activities.

24 ~~(c)~~ (iv) The contact of the protected person with family
25 members and other significant persons.

26 ~~(d)~~ (v) The nature and extent of the guardian's visits
27 with, and activities on behalf of, the protected person.

28 ~~(4)~~ (d) The guardian's recommendation as to the need for
29 continuation of the guardianship.

30 ~~(5)~~ (e) The ability of the guardian to continue as
31 guardian.

32 ~~(6)~~ (f) The need of the guardian for assistance in
33 providing or arranging for the provision of the care and
34 protection of the protected person.

35 (g) Any other information the guardian deems necessary for

1 the court to consider.

2 ~~e.~~ 1A. A The guardian under a tier I or II guardianship
3 shall file a final report within thirty days of the termination
4 of the guardianship under section 633.675 unless that time is
5 extended by the court.

6 2. The court shall develop a simplified uniform reporting
7 form for use in filing the required reports.

8 3. The clerk of the court shall notify the guardian in
9 writing of the reporting requirements and shall provide
10 information and assistance to the guardian in filing the
11 reports.

12 4. Reports of guardians shall be reviewed and approved by a
13 district court judge or referee.

14 5. The court, for good cause, may extend the deadline for
15 filing required reports. Required reports of a guardian which
16 are not timely filed and which are delinquent, and for which no
17 extension for filing has been granted by the court, shall be
18 administered as provided in section 633.32.

19 6. The guardian shall provide a copy of the reports required
20 by this section to the protected person, the protected person's
21 attorney, if any, and the court visitor, if any.

22 Sec. 35. Section 633.670, Code 2022, is amended to read as
23 follows:

24 **633.670 Reports by conservators.**

25 1. The court shall assign a conservatorship created under
26 this chapter, and may reassign as necessary in the court's
27 discretion, to one of following reporting tiers:

28 a. Tier I: A conservator assigned a tier I conservatorship
29 shall file with the court a verified annual report which shall
30 not be waived by the court. The annual report shall include
31 all of the following:

32 (1) The balance of funds on hand at the close of the last
33 previous accounting, and all amounts received from any source
34 during the period covered by the accounting.

35 (2) All disbursements made during the period covered by the

1 accounting.

2 (3) Any changes in investments since the last previous
3 report, including a list of all assets, and recommendations
4 of the conservator for the retention or disposition of any
5 property held by the conservator.

6 (4) The amount of the bond and the name of the surety on the
7 bond.

8 (5) The residence or physical location of the protected
9 person.

10 (6) The general physical and mental condition of the
11 protected person.

12 (7) Such other information as shall be necessary to show the
13 condition of the affairs of the conservatorship.

14 b. Tier II: A conservator assigned a tier II
15 conservatorship shall file an with the court a verified initial
16 financial management plan for protecting, managing, investing,
17 expending, and distributing the assets of the conservatorship
18 estate within ninety days after appointment which shall not be
19 waived by the court. The plan must be based on the needs of
20 the protected person and take into account the best interest
21 of the protected person as well as the protected person's
22 preference, values, and prior directions to the extent known
23 to, or reasonably ascertainable by, the conservator.

24 ~~a. c. The initial plan shall include all of the following:~~

25 The initial financial management plan required pursuant
26 to paragraph "b" shall state the protected person's age,
27 residence, living arrangements, and sources of payment for
28 living expenses.

29 ~~(1) A budget containing projected expenses and resources,~~
30 ~~including an estimate of the total amount of fees the~~
31 ~~conservator anticipates charging per year and a statement or~~
32 ~~list of the amount the conservator proposes to charge for each~~
33 ~~service the conservator anticipates providing to the protected~~
34 ~~person.~~

35 ~~(2) A statement as to how the conservator will involve~~

1 ~~the protected person in decisions about management of the~~
2 ~~conservatorship estate.~~

3 ~~(3) If ordered by the court, any step the conservator plans~~
4 ~~to take to develop or restore the ability of the protected~~
5 ~~person to manage the conservatorship estate.~~

6 ~~(4) An estimate of the duration of the conservatorship.~~

7 d. If applicable, the protected person's will shall be filed
8 with the court clerk and the protected person's prepaid burial
9 trust and powers of attorney shall be described.

10 ~~b. e. Within two days after filing the initial plan,~~
11 ~~the The conservator shall give provide notice of the filing~~
12 ~~of the initial plan with required pursuant to paragraph "b"~~
13 ~~and a copy of the initial plan to the protected person, the~~
14 ~~protected person's attorney, if any, and court visitor, if any,~~
15 ~~and others as directed by the court. The notice must state~~
16 ~~that any person entitled to a copy of the plan must file any~~
17 ~~objections to the plan not later than fifteen days after it is~~
18 ~~filed twenty days from the date of mailing notice of filing the~~
19 initial plan.

20 ~~e. f. At least twenty days after the initial plan required~~
21 pursuant to paragraph "b" has been filed, the court shall review
22 and determine whether the plan should be approved or revised,
23 after considering objections filed and whether the plan is
24 consistent with the conservator's powers and duties.

25 ~~d. g. After approval of the initial plan required pursuant~~
26 to paragraph "b" by the court, the conservator shall provide a
27 copy of the approved plan and order approving the plan to the
28 protected person, the protected person's attorney, if any, and
29 court visitor, if any, and others as directed by the court.

30 ~~e. h. The conservator assigned to a tier II conservatorship~~
31 shall file an amended plan when there has been a significant
32 change in circumstances or the conservator seeks to deviate
33 significantly from the plan. Before the amended plan is
34 implemented, the provisions for court approval of the plan
35 shall be followed as provided in paragraphs "b", "c", and "d"

1 the initial financial management plan.

2 ~~2. A conservator shall file an inventory of the protected~~
3 ~~person's assets within ninety days after appointment which~~
4 ~~includes an oath or affirmation that the inventory is believed~~
5 ~~to be complete and accurate as far as information permits.~~
6 ~~Copies of the inventory shall be provided to the protected~~
7 ~~person, the protected person's attorney and court visitor, if~~
8 ~~any, and others as directed by the court. When the conservator~~
9 ~~receives additional property of the protected person, or~~
10 ~~becomes aware of its existence, a description of the property~~
11 ~~shall be included in the conservator's next annual report. A~~
12 conservator assigned to a tier II conservatorship shall attach
13 to the initial financial management plan an inventory of the
14 protected person's assets and debts, which includes an oath or
15 affirmation that the inventory is believed to be complete and
16 accurate as far as information permits. The conservator shall
17 provide copies of the inventory to the protected person, the
18 protected person's attorney, if any, and the court visitor, if
19 any, and others as directed by the court. Any objections to
20 the inventory shall be filed in the same manner and according
21 to the same schedule as objections to the initial financial
22 management plan. The court shall review the inventory and
23 determine whether the inventory should be approved at the same
24 time as the court reviews the initial financial management
25 plan. When the conservator receives an additional asset of the
26 protected person or becomes aware of its existence, or becomes
27 aware of additional debt of the protected person, a description
28 of the asset or debt shall be included in the conservator's
29 next annual report.

30 3. a. A conservator assigned to a tier II conservatorship
31 shall file a written and verified report on an annual basis
32 for the period since the end of the preceding report period.
33 ~~The court which shall not waive these reports be waived by the~~
34 court.

35 a. b. ~~These reports shall include all of the following:~~

1 The annual report required by this paragraph shall state
2 the age, the residence, and the living arrangements of the
3 protected person, and sources of payment for the protected
4 person's living expenses during the reporting period.

5 ~~(1) Balance of funds on hand at the beginning and end of the~~
6 ~~period.~~

7 ~~(2) Disbursements made.~~

8 ~~(3) Changes in the conservator's plan.~~

9 ~~(4) List of assets as of the end of the period.~~

10 ~~(5) Bond amount and surety's name.~~

11 ~~(6) Residence and physical location of the protected~~
12 ~~person.~~

13 ~~(7) General physical and mental condition of the protected~~
14 ~~person.~~

15 ~~(8) Other information reflecting the condition of the~~
16 ~~conservatorship estate.~~

17 ~~b. c.~~ These reports shall be filed: The conservator shall
18 submit with the annual report required by this paragraph an
19 inventory of the assets of the protected person as of the last
20 day of the reporting period the total value of assets at the
21 beginning and end of the reporting period.

22 ~~(1) On an annual basis within sixty days of the end of the~~
23 ~~reporting period unless the court orders an extension for good~~
24 ~~cause shown in accordance with the rules of probate procedure.~~

25 4. The conservator assigned a tier I or II conservatorship
26 shall file a verified final report with the court as follows:

27 ~~(2) a.~~ Within thirty days following removal of the
28 conservator.

29 ~~(3) b.~~ Upon the conservator's filing of a resignation and
30 before the resignation is accepted by the court.

31 ~~(4) c.~~ Within sixty days following the termination of the
32 conservatorship.

33 ~~(5) d.~~ At other times as ordered by the court.

34 ~~e. 5.~~ Reports required by this section shall be served on
35 The conservator shall provide a copy of the initial financial

1 management plan, if applicable, the inventory of the protected
2 person's assets, if applicable, and the annual report to the
3 protected person, the protected person's attorney, if any, and
4 court visitor, if any, and the veterans administration if the
5 protected person is receiving veterans' benefits.

6 6. The court, for good cause, may extend the deadline for
7 filing required reports. Required reports of a conservator
8 which are not timely filed and which are delinquent, and for
9 which no extension for filing has been granted by the court,
10 shall be administered as provided in section 633.32.

11 7. Reports of conservators shall be reviewed and approved by
12 a district court judge or referee.

13 Sec. 36. Section 633.675, subsections 2, 3, and 5, Code
14 2022, are amended to read as follows:

15 2. The court shall terminate a guardianship for an adult if
16 it the court finds by clear and convincing evidence that the
17 basis for appointing a guardian pursuant to section 633.552 has
18 not been established.

19 3. The court shall terminate a conservatorship if the court
20 finds by clear and convincing evidence that the basis for
21 appointing a conservator pursuant to section 633.553 or 633.554
22 is not satisfied.

23 5. The standard of proof and the burden of proof to be
24 applied in a termination proceeding to terminate a guardianship
25 or conservatorship for an adult shall be the same as set forth
26 in section 633.551, subsection 2.>

27 2. Page 15, by striking lines 7 through 9.

28 3. By renumbering as necessary.

By HITE of Mahaska

SENATE FILE 2378

H-8306

1 Amend Senate File 2378, as amended, passed, and reprinted by
2 the Senate, as follows:

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

5 <Section 1. Section 455C.1, subsections 1 and 6, Code 2022,
6 are amended to read as follows:

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

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

19 Sec. 2. Section 455C.1, Code 2022, is amended by adding the
20 following new subsections:

21 NEW SUBSECTION. 11A. "*Mobile redemption system*" means
22 a location at which a consumer may return empty beverage
23 containers on which a refund value has been paid that uses
24 innovative technology to process empty beverage containers and
25 return the amount of the refund value to consumers.

26 NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer
27 who accepts the return of empty beverage containers from a
28 consumer.

29 Sec. 3. Section 455C.2, Code 2022, is amended to read as
30 follows:

31 **455C.2 Refund values.**

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

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

11 2. In addition to the refund value provided in subsection
12 ~~1 of this section~~, a participating dealer, dealer agent, or
13 person operating a redemption center or mobile redemption
14 system who redeems empty beverage containers ~~or a dealer agent~~
15 shall be reimbursed by the distributor required to accept the
16 empty beverage containers ~~an amount which a~~ handling fee that
17 is one cent per container, except as provided in subsection 3.
18 A participating dealer, dealer agent, or person operating a
19 redemption center or mobile redemption system may compact empty
20 metal beverage containers with the approval of the distributor
21 required to accept the containers.

22 3. a. Upon delivery of beverages from a distributor to
23 a dealer, the dealer shall pay a handling fee of one-half
24 cent per container to the distributor unless the dealer is a
25 participating dealer or unless the dealer refuses to accept
26 empty beverage containers due to the dealer satisfying the
27 requirements set forth in section 455C.4, subsection 2,
28 paragraph "a", subparagraph (3). This paragraph is repealed
29 July 1, 2028.

30 b. A distributor shall pay an additional one-cent handling
31 fee for each nonalcoholic beverage container accepted.

32 c. A distributor shall pay an additional one-cent handling
33 fee for each beverage container accepted that contained beer,
34 including high-alcoholic content beer. A distributor who pays
35 an additional handling fee pursuant to this paragraph may claim

1 a refund of the barrel tax established in section 123.136 paid
2 by the distributor in the amount of one-half cent for each
3 applicable beverage container accepted. The department of
4 revenue shall prescribe forms for a distributor to use to claim
5 a refund under this paragraph.

6 Sec. 4. Section 455C.3, subsections 1, 2, and 4, Code 2022,
7 are amended to read as follows:

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

13 2. A distributor shall accept and pick up from a
14 participating dealer served by the distributor or a redemption
15 center or mobile redemption system for a dealer served by
16 the distributor at least weekly, or when the distributor
17 delivers the beverage product if deliveries are less frequent
18 than weekly, any empty beverage container of the kind, size,
19 and brand sold by the distributor, and shall pay to the
20 participating dealer or person operating a redemption center
21 or mobile redemption system the refund value of a beverage
22 container and the reimbursement as provided under section
23 455C.2 within one week following pickup of the containers or
24 when the participating dealer ~~or redemption center~~ normally
25 pays the distributor for the deposit on beverage products
26 purchased from the distributor if less frequent than weekly.
27 A distributor or employee or agent of a distributor is not in
28 violation of this subsection if a redemption center or mobile
29 redemption system is closed when the distributor attempts to
30 ~~make a regular delivery or~~ a regular pickup of empty beverage
31 containers. This subsection does not apply to a distributor
32 selling alcoholic liquor to the alcoholic beverages division
33 of the department of commerce.

34 4. A distributor shall accept from a dealer agent any
35 empty beverage container of the kind, size, and brand sold by

1 the distributor and ~~which~~ that was picked up by the dealer
2 agent ~~from a dealer~~ within the geographic territory served
3 by the distributor and the distributor shall pay the dealer
4 agent the refund value of the empty beverage container and the
5 reimbursement as provided in section 455C.2.

6 Sec. 5. Section 455C.4, Code 2022, is amended to read as
7 follows:

8 **455C.4 Refusal to accept containers.**

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

14 2. a. A dealer may refuse to accept and to pay the
15 refund value of any empty beverage container if ~~the place of~~
16 ~~business of the dealer and the kind and brand of empty beverage~~
17 ~~containers are included in an order of the department approving~~
18 ~~a redemption center under section 455C.6~~ any of the following
19 apply:

20 (1) The dealer sells beverage containers only in single
21 units at or in close proximity to the dealer's point of sale.

22 (2) The dealer holds a food establishment license under
23 chapter 137F to prepare or serve food, has a certified food
24 protection manager as required by the 2017 United States food
25 and drug administration food code and supplement, and sells
26 time/temperature control for safety food as defined in section
27 137F.2.

28 (3) The dealer has entered an agreement with a mobile
29 redemption system and all of the following apply:

30 (a) The dealer provides adequate space, utilities, and
31 internet connection to operate the mobile redemption system.

32 (b) The agreement does not require additional payment to the
33 dealer or the mobile redemption system.

34 (4) The dealer's place of business is in a county with a
35 population of more than thirty thousand and within ten miles

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

5 b. A dealer who refuses to accept and to pay the refund
6 value on any empty beverage container pursuant to this
7 subsection shall conspicuously display on the front door of
8 the dealer's place of business a notice that the dealer does
9 not accept empty beverage containers. The notice shall also
10 provide the location of the nearest redemption center or mobile
11 redemption system to the dealer's place of business. After the
12 department has made available an electronic method for locating
13 redemption centers and mobile redemption systems pursuant to
14 paragraph "c", a dealer may direct consumers to such electronic
15 method instead of providing the location of the nearest
16 redemption center or mobile redemption system on the notice.

17 c. By December 31, 2022, the department shall make available
18 to the public an electronic method of locating redemption
19 centers and mobile redemption systems.

20 d. A dealer who provides space for a mobile redemption
21 system pursuant to paragraph "a", subparagraph (3), shall not be
22 considered to be in violation of any county or city ordinance
23 that would otherwise limit the ability of the dealer to provide
24 such space.

25 ~~3. A dealer or a distributor may refuse to accept and to pay~~
26 ~~the refund value of an empty wine or alcoholic liquor container~~
27 ~~which is marked to indicate that it was sold by a state liquor~~
28 ~~store. The alcoholic beverages division shall not reimburse~~
29 ~~a dealer or a distributor the refund value on an empty wine or~~
30 ~~alcoholic liquor container which is marked to indicate that the~~
31 ~~container was sold by a state liquor store.~~

32 4. 3. A class "E" liquor control licensee may refuse to
33 accept and to pay the refund value on an empty alcoholic liquor
34 container from a participating dealer, or a redemption center,
35 or a mobile redemption system or from a person acting on behalf

1 of or who has received empty alcoholic liquor containers from
2 a participating dealer, or a redemption center, or a mobile
3 redemption system.

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

9 Sec. 6. Section 455C.5, subsection 1, Code 2022, is amended
10 to read as follows:

11 1. Each beverage container sold or offered for sale in
12 this state by a dealer shall clearly indicate the refund value
13 of the container by embossing or by a stamp, label, or other
14 method securely affixed to the container, ~~the refund value of~~
15 ~~the container.~~ The department shall specify, by rule, the
16 minimum size of the refund value indication on the beverage
17 containers and require registration of the universal product
18 code for each beverage container using a method determined by
19 the department.

20 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2022,
21 are amended to read as follows:

22 1. To facilitate the return of empty beverage containers
23 and to serve dealers of beverages, any person may establish a
24 redemption center, ~~subject to the approval of the department,~~
25 or mobile redemption system at which consumers may return empty
26 beverage containers and receive payment of the refund value of
27 such beverage containers. A participating dealer may act as a
28 redemption center for purposes of this chapter.

29 2. ~~An application for approval of a~~ A person operating
30 a redemption center or a mobile redemption system shall file
31 written notice of the operation of the redemption center ~~shall~~
32 ~~be filed~~ or mobile redemption system with the department. The
33 ~~application~~ notice shall state the name and address of the
34 person responsible for the establishment and operation of the
35 redemption center, ~~the kind and brand names of the beverage~~

1 ~~containers which will be accepted at the redemption center,~~
2 or mobile redemption system and the names and addresses of
3 the dealers to be served by the redemption center or mobile
4 redemption system. The ~~application~~ notice shall contain such
5 other information as the director may reasonably require.

6 5. All ~~approved~~ redemption centers and mobile redemption
7 systems shall meet applicable health standards.

8 Sec. 8. Section 455C.6, subsections 3 and 4, Code 2022, are
9 amended by striking the subsections.

10 Sec. 9. Section 455C.12, subsections 2 and 3, Code 2022, are
11 amended to read as follows:

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

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

19 a. Collects or attempts to collect the refund value on the
20 container a second time, with the knowledge that the refund
21 value has once been paid by the distributor to a participating
22 dealer, redemption center, mobile redemption system, or
23 consumer.

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

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

32 Sec. 10. Section 455C.12, Code 2022, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 6. A person who violates any provision of
35 this chapter, or any rule, permit, or order adopted or issued

1 under this chapter, shall be subject to a civil penalty not
2 to exceed two thousand five hundred dollars for each day of
3 the violation. However, a person who knowingly attempts to
4 redeem a beverage container that is not properly marked as
5 required by section 455C.5, subsection 1, shall be subject
6 to a civil penalty not to exceed ten dollars per improperly
7 marked beverage container, but not to exceed five thousand
8 dollars total per attempted transaction. The department shall
9 adopt rules establishing a schedule of civil penalties based
10 on the severity of the violation. Any civil penalty collected
11 under this chapter shall be deposited in the bottle bill fund
12 established in section 455C.12C.

13 Sec. 11. NEW SECTION. **455C.12A Administrative enforcement**
14 **— compliance orders.**

15 1. The director may issue any order necessary to secure
16 compliance with or prevent a violation of the provisions of
17 this chapter or any rule adopted or permit or order issued
18 pursuant to this chapter. Any order issued pursuant to this
19 section may impose a civil penalty authorized pursuant to
20 section 455C.12, subsection 6, for a violation of the order,
21 to be collected administratively by the department. The
22 person to whom the compliance order is issued may cause to be
23 commenced a contested case within the meaning of chapter 17A by
24 filing within thirty days a notice of appeal to the director.
25 Following a contested case hearing and a proposed decision
26 issued by the department, the commission may affirm, modify, or
27 vacate the proposed decision.

28 2. If a person continues an alleged violation during the
29 appeals process and the commission affirms that the person has
30 committed a violation, the department may assess penalties for
31 each day the violation continued through the appeals process.

32 Sec. 12. NEW SECTION. **455C.12B Civil actions for compliance**
33 **— penalties.**

34 1. The attorney general shall institute any legal
35 proceedings necessary to obtain compliance with the provisions

1 of this chapter, including any rule, permit, or compliance
2 order issued pursuant to this chapter, relating to the
3 redemption of beverage containers, including provisions
4 relating to the redemption of nonrefillable metal beverage
5 containers, and the duties and obligations of redemption
6 centers and mobile redemption systems.

7 2. Notwithstanding section 455C.12, subsection 6, any
8 person who violates a provision of this chapter, including
9 a rule, permit, or compliance order issued pursuant to
10 this chapter, relating to the redemption of beverage
11 containers, including provisions relating to the redemption
12 of nonrefillable metal beverage containers, or the duties
13 and obligations of redemption centers or mobile redemption
14 systems, as determined pursuant to a legal proceeding under
15 this section, shall be subject to a civil penalty not to
16 exceed ten thousand dollars for each day of such violation.
17 Moneys collected from civil penalties under this section shall
18 be deposited in the bottle bill fund established in section
19 455C.12C.

20 Sec. 13. NEW SECTION. 455C.12C **Bottle bill fund.**

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

35 Sec. 14. Section 455C.13, Code 2022, is amended to read as

1 follows:

2 **455C.13 Distributors' agreements authorized.**

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

8 2. For purposes of this chapter, any contracts entered into
9 pursuant to this section for the collection or disposal of
10 empty beverage containers shall not be deemed to interfere with
11 the refund value pursuant to section 455C.2.

12 Sec. 15. Section 455C.14, subsection 1, Code 2022, is
13 amended to read as follows:

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

34 Sec. 16. Section 455C.16, Code 2022, is amended to read as
35 follows:

1 **455C.16 Beverage containers — disposal at sanitary landfill**
2 **prohibited.**

3 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
4 containers ~~by a dealer, distributor, or manufacturer, or~~
5 ~~person operating a redemption center, in a sanitary landfill,~~
6 ~~is prohibited. Beginning September 1, 1992, including the~~
7 final disposal of beverage containers that used to contain
8 alcoholic liquor as defined in section 123.3, subsection 5, by
9 a participating dealer, distributor, ~~or~~ manufacturer, or person
10 operating a redemption center or mobile redemption system in a
11 sanitary landfill, is prohibited.

12 Sec. 17. LEGISLATIVE FISCAL COMMITTEE REVIEW.

13 1. The legislative fiscal committee established in section
14 2.45 shall hold a meeting during the legislative interim
15 immediately preceding the 2026 regular legislative session.
16 During the meeting, the committee shall review the enforcement
17 of chapter 455C by the department of natural resources,
18 including the collection of civil penalties, the report
19 submitted by the attorney general pursuant to subsection 2,
20 whether and how many redemption centers, participating dealers,
21 and mobile redemption systems have filed a written notice of
22 operation with the department, an estimate of the redemption
23 rate based on the barrel tax refunded to distributors pursuant
24 to section 455C.2, subsection 3, paragraph "a", and the
25 adequacy of the reimbursement amount under section 455C.2,
26 subsections 2 and 3. The committee shall submit a report of
27 its findings and recommendations to the general assembly no
28 later than January 31, 2026.

29 2. The attorney general shall submit a report to the
30 general assembly prior to the legislative fiscal committee's
31 meeting under subsection 1. The report shall detail any legal
32 proceedings arising under chapter 455C since the effective date
33 of section 455C.12B, as enacted in this Act.

34 Sec. 18. REPEAL. Sections 455C.7 and 455C.10, Code 2022,
35 are repealed.

H-8306 (Continued)

1 Sec. 19. EFFECTIVE DATE. The section of this Act enacting
2 section 455C.12B takes effect July 1, 2023.>

3 2. Title page, by striking lines 1 through 4 and inserting
4 <An Act relating to beverage containers control provisions,
5 including handling fees, refund value, applicability to certain
6 beverages, and acceptance of beverage containers, providing
7 penalties, and including effective date provisions.>

By LOHSE of Polk

[H-8306](#) FILED MARCH 30, 2022

SENATE FILE 2378

H-8307

1 Amend Senate File 2378, as amended, passed, and reprinted by
2 the Senate, as follows:

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

5 <DIVISION I

6 CHANGES TO CURRENT BEVERAGE CONTAINERS CONTROL LAW

7 Section 1. Section 455C.1, subsections 1 and 6, Code 2022,
8 are amended to read as follows:

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

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

21 Sec. 2. Section 455C.1, Code 2022, is amended by adding the
22 following new subsections:

23 NEW SUBSECTION. 01. "*Automatic redemption system*" means a
24 location operated by a redemption service provider at which a
25 consumer may return empty beverage containers on which a refund
26 value has been paid that uses innovative technology to process
27 empty beverage containers and return the amount of the refund
28 value to consumers.

29 NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer
30 who accepts the return of empty beverage containers from a
31 consumer.

32 NEW SUBSECTION. 14. "*Redemption service provider*" means a
33 dealer agent or a registered redemption center.

34 Sec. 3. Section 455C.2, Code 2022, is amended to read as
35 follows:

1 **455C.2 Refund values.**

2 1. A refund value of ~~not less than~~ five cents shall be paid
3 by the consumer on each beverage container sold in this state
4 by a dealer for consumption off the premises. Upon return of
5 the empty beverage container upon which a refund value has
6 been paid to ~~the~~ a participating dealer or ~~person operating~~
7 a redemption center and acceptance of the empty beverage
8 container by the participating dealer or ~~person operating a~~
9 redemption center, the participating dealer or ~~person operating~~
10 a redemption center shall return the amount of the refund value
11 to the consumer.

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

23 b. When a distributor delivers beverage containers to
24 a dealer, the dealer shall pay to the distributor as a
25 contribution to the reimbursement required under paragraph "a"
26 one-half of one cent per beverage container for each beverage
27 container delivered.

28 Sec. 4. Section 455C.3, subsections 1, 2, and 4, Code 2022,
29 are amended to read as follows:

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

35 2. A distributor shall accept and pick up from a

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

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

26 Sec. 5. Section 455C.4, Code 2022, is amended to read as
27 follows:

28 **455C.4 Refusal to accept containers.**

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

34 2. a. A dealer may refuse to accept and to pay the
35 refund value of any empty beverage container if the ~~place of~~

~~1 business of the dealer and the kind and brand of empty beverage~~
~~2 containers are included in an order of the department approving~~
~~3 a redemption center under section 455C.6 dealer enters a~~
~~4 contract with a redemption service provider who will accept~~
~~5 beverage containers on the dealer's behalf. A dealer may only~~
~~6 enter a contract with a registered redemption center under this~~
~~7 subsection if the dealer's place of business is in a county~~
~~8 with a population of more than thirty thousand and within five~~
~~9 miles of the redemption center or if the dealer's place of~~
~~10 business is in a county with a population of thirty thousand or~~
~~11 fewer and within ten miles of the redemption center.~~

~~12 b. A dealer who refuses to accept empty beverage containers~~
~~13 and enters a contract with a registered redemption center under~~
~~14 paragraph "a" shall prominently post on the premises of the~~
~~15 dealer's place of business a sign that includes the location~~
~~16 and hours of a registered redemption center with which the~~
~~17 dealer has contracted under paragraph "a".~~

~~18 c. A redemption service provider may require as a term of~~
~~19 a contract entered into under paragraph "a" that the dealer~~
~~20 shall make space available on the dealer's property for the~~
~~21 redemption service provider to collect beverage containers at~~
~~22 no cost to the redemption service provider.~~

~~23 d. Entering a contract with a dealer agent or a redemption~~
~~24 service provider operating an automatic redemption system does~~
~~25 not satisfy the contract requirement in paragraph "a" unless~~
~~26 the contract requires the dealer agent or redemption service~~
~~27 provider operating a mobile redemption system to return refund~~
~~28 value to consumers in the form of cash or a voucher immediately~~
~~29 redeemable for cash at the time of return.~~

~~30 3. A dealer or a distributor may refuse to accept and to pay~~
~~31 the refund value of an empty wine or alcoholic liquor container~~
~~32 which is marked to indicate that it was sold by a state liquor~~
~~33 store. The alcoholic beverages division shall not reimburse~~
~~34 a dealer or a distributor the refund value on an empty wine or~~
~~35 alcoholic liquor container which is marked to indicate that the~~

1 ~~container was sold by a state liquor store.~~

2 4. 3. A class "E" liquor control licensee may refuse to
3 accept and to pay the refund value on an empty alcoholic liquor
4 container from a participating dealer or a redemption center
5 or from a person acting on behalf of or who has received empty
6 alcoholic liquor containers from a participating dealer or a
7 redemption center.

8 5. 4. A manufacturer or distributor may refuse to accept
9 and to pay the refund value and reimbursement as provided in
10 section 455C.2 on any empty beverage container that was picked
11 up by a dealer agent ~~from a dealer~~ outside the geographic
12 territory served by the manufacturer or distributor.

13 Sec. 6. Section 455C.5, subsection 1, Code 2022, is amended
14 to read as follows:

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

22 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2022,
23 are amended to read as follows:

24 1. To facilitate the return of empty beverage containers and
25 to serve dealers of beverages, any person may register with the
26 department pursuant to subsection 2 to establish a redemption
27 center, ~~subject to the approval of the department~~, at which
28 consumers may return empty beverage containers and receive
29 payment of the refund value of such beverage containers.

30 2. a. ~~An application for approval of~~ Written notice of
31 the operation of a redemption center shall be filed with the
32 department. The application notice shall ~~state the name and~~
33 ~~address of the person responsible for the establishment and~~
34 ~~operation of the redemption center~~, the kind and brand names
35 ~~of the beverage containers which will be accepted at the~~

1 ~~redemption center, and the names and addresses of the dealers~~
2 ~~to be served by the redemption center. The application shall~~
3 ~~contain such other information as the director may reasonably~~
4 ~~require~~ include the information listed in paragraph "b".

5 Upon filing a proper notice, the redemption center shall be
6 considered registered for purposes of this chapter.

7 b. A redemption center's notice filed under paragraph "a"
8 shall be considered proper if it includes all of the following:

9 (1) The name, address, and telephone number of the
10 redemption center.

11 (2) The name, address, and telephone number of the person or
12 persons responsible for the establishment and operation of the
13 redemption center.

14 (3) An indication that the redemption center will accept
15 all kinds, sizes, and brands of beverage containers sold by the
16 dealers served by the redemption center.

17 (4) The names and addresses of the distributors whose
18 beverage containers will be redeemed.

19 (5) The hours during which the redemption center will be
20 open.

21 (6) An indication that the redemption center will be in
22 operation and open to the public for the redemption of beverage
23 containers at least twenty hours per week, four hours of which
24 shall be between the hours of 6:00 p.m. and 10:00 p.m. or on
25 Saturday or Sunday, or a combination thereof.

26 5. All ~~approved~~ redemption centers shall meet applicable
27 health standards.

28 Sec. 8. NEW SECTION. 455C.6A Automatic redemption systems.

29 A redemption service provider may operate an automatic
30 redemption system to accept the return of empty beverage
31 containers and return refund value to consumers.

32 Sec. 9. Section 455C.12, subsection 2, Code 2022, is amended
33 to read as follows:

34 2. A distributor who collects or attempts to collect
35 a refund value on an empty beverage container when the

1 distributor has paid the refund value on the container to a
2 participating dealer, redemption center, or consumer is guilty
3 of a fraudulent practice.

4 Sec. 10. Section 455C.12, subsection 3, paragraphs a and b,
5 Code 2022, are amended to read as follows:

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

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

14 Sec. 11. Section 455C.12, Code 2022, is amended by adding
15 the following new subsection:

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

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

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

1 filing within thirty days a notice of appeal to the director.
2 Following a contested case hearing and a proposed decision
3 issued by the department, the commission may affirm, modify, or
4 vacate the proposed decision.

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

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

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

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

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

24 Sec. 15. NEW SECTION. **455C.12D Bottle bill enforcement**
25 **fund.**

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

1 section 12C.7, subsection 2, interest or earnings on moneys in
2 the fund shall be credited to the fund.

3 Sec. 16. Section 455C.13, Code 2022, is amended to read as
4 follows:

5 **455C.13 ~~Distributors'~~ Collection and disposal agreements**
6 **authorized.**

7 1. A distributor, dealer, or redemption center may enter
8 into a contract or agreement with any other distributor,
9 manufacturer, or person for the purpose of collecting or ~~paying~~
10 ~~the refund value on, or disposing of,~~ beverage containers as
11 provided in this chapter.

12 2. For purposes of this chapter, any contracts entered into
13 pursuant to this section for the collection or disposal of
14 empty beverage containers shall not be deemed to interfere with
15 the refund value pursuant to section 455C.2.

16 Sec. 17. Section 455C.14, subsection 1, Code 2022, is
17 amended to read as follows:

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

1 Sec. 18. Section 455C.16, Code 2022, is amended to read as
2 follows:

3 **455C.16 Beverage containers — disposal at sanitary landfill**
4 **prohibited.**

5 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
6 containers ~~by a dealer, distributor, or manufacturer, or~~
7 ~~person operating a redemption center, in a sanitary landfill,~~
8 ~~is prohibited. Beginning September 1, 1992, including the~~
9 final disposal of beverage containers that used to contain
10 alcoholic liquor as defined in section 123.3, subsection 5,
11 by a participating dealer, distributor, ~~or~~ manufacturer, or
12 ~~person operating a redemption center in a sanitary landfill,~~
13 is prohibited.

14

DIVISION II

15

REPEAL OF CURRENT BEVERAGE CONTAINERS CONTROL LAW

16 Sec. 19. Section 123.24, subsection 2, paragraph d, Code
17 2022, is amended by striking the paragraph.

18 Sec. 20. Section 123.26, Code 2022, is amended to read as
19 follows:

20 **123.26 Restrictions on sales — seals — labeling.**

21 Alcoholic liquor shall not be sold by a class "E" liquor
22 control licensee except in a sealed container with identifying
23 markers as prescribed by the administrator and affixed in the
24 manner prescribed by the administrator, and no such container
25 shall be opened upon the premises of a state warehouse. The
26 division shall ~~cooperate with the department of natural~~
27 ~~resources so~~ ensure that only one identifying marker or mark is
28 needed to satisfy the requirements of this section and section
29 ~~455C.5~~ 123B.4, subsection 1. Possession of alcoholic liquors
30 ~~which~~ that do not carry the prescribed identifying markers is a
31 violation of this chapter except as provided in section 123.22.

32 Sec. 21. Section 123.187, subsection 3, paragraph e, Code
33 2022, is amended by striking the paragraph.

34 Sec. 22. Section 423.6, subsection 3, paragraph a, Code
35 2022, is amended to read as follows:

1 *a.* Any tangible personal property including containers
2 for which it is intended shall, by means of fabrication,
3 compounding, manufacturing, or germination, become an integral
4 part of other tangible personal property intended to be sold
5 ultimately at retail, and containers used in the collection,
6 recovery, or return of empty beverage containers subject to
7 chapter ~~455C~~ 123B.

8 Sec. 23. Section 455A.4, subsection 1, paragraph b, Code
9 2022, is amended to read as follows:

10 *b.* Provide overall supervision, direction, and coordination
11 of functions to be administered by the administrators under
12 chapters 321G, 321I, 455B, ~~455C~~, 456A, 456B, 457A, 458A, 459,
13 459A, 459B, 461A, 462A, 462B, 464A, 465C, 473, 481A, 481B,
14 483A, 484A, and 484B.

15 Sec. 24. Section 455A.6, subsection 6, paragraphs a, b, and
16 d, Code 2022, are amended to read as follows:

17 *a.* Establish policy for the department and adopt rules,
18 pursuant to chapter 17A, necessary to provide for the effective
19 administration of chapter 455B, ~~455C~~, or 459.

20 *b.* Hear appeals in contested cases pursuant to chapter 17A
21 on matters relating to actions taken by the director under
22 chapter ~~455C~~, 458A, 464B, or 473.

23 *d.* Approve the budget request prepared by the director
24 for the programs authorized by chapters 455B, ~~455C~~, 455E,
25 455F, 455H, and 459, subchapters II and III. The commission
26 shall approve the budget request prepared by the director for
27 programs subject to the rulemaking authority of the commission.
28 The commission may increase, decrease, or strike any item
29 within the department budget request for the specified programs
30 before granting approval.

31 Sec. 25. Section 455B.313, subsection 1, Code 2022, is
32 amended to read as follows:

33 1. A distributor ~~as defined in section 455C.1, subsection~~
34 ~~9~~, shall not sell or offer to sell any beverage container
35 if the beverage container is connected to another beverage

1 container by a device constructed of a material ~~which~~ that is
2 not biodegradable or photodegradable.

3 Sec. 26. Section 455B.313, Code 2022, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 3. For purposes of this section,
6 "*distributor*" means any person who engages in the sale of
7 beverages in beverage containers to a dealer in this state,
8 as those terms are defined in section 123B.1, including any
9 manufacturer who engages in such sales.

10 Sec. 27. REPEAL. Chapter 455C, Code 2022, is repealed.

11 Sec. 28. TRANSITION PROVISIONS. Upon repeal of chapter
12 455C and the creation of the bottle bill deposit fund pursuant
13 to section 123B.11, as enacted in this Act, all moneys in the
14 bottle bill enforcement fund created in section 455C.12D, as
15 enacted in this Act, are transferred to the alcoholic beverages
16 division for deposit in the bottle bill deposit fund. Any
17 moneys credited to the bottle bill enforcement fund on and
18 after January 1, 2024, are transferred to the division for
19 deposit in the bottle bill deposit fund.

20 Sec. 29. EFFECTIVE DATE. This division of this Act takes
21 effect January 1, 2024.

22 DIVISION III

23 NEW BEVERAGE CONTAINERS CONTROL LAW

24 Sec. 30. NEW SECTION. 123B.1 Definitions.

25 As used in this chapter, unless the context otherwise
26 requires:

27 1. a. "*Beverage*" means any of the following:

28 (1) Wine as defined in section 123.3, subsection 54.

29 (2) Alcoholic liquor as defined in section 123.3,
30 subsection 5.

31 (3) Beer as defined in section 123.3, subsection 7.

32 (4) High alcoholic content beer as defined in section 123.3,
33 subsection 22.

34 (5) Canned cocktail as defined in section 123.3, subsection
35 11.

1 (6) Mineral water, soda water, and similar carbonated soft
2 drinks.

3 (7) Any liquid identified through the use of letters,
4 words, or symbols on its product label as a type of water,
5 including any flavored water or nutritionally enhanced water,
6 in a container greater than or equal to four fluid ounces and
7 less than three liters.

8 (8) Tea or coffee drinks, regardless of dairy-derived
9 content, in a container greater than or equal to four fluid
10 ounces and less than three liters.

11 (9) Juice derived from one or more fruits or vegetables that
12 is intended for direct human consumption and not as a base or
13 additive to any beverage or food, in a container greater than
14 or equal to four fluid ounces and less than three liters.

15 (10) Sports drinks, which are soft drinks designed or
16 marketed for consumption in conjunction with sporting activity
17 or strenuous exercise, and which typically contain electrolytes
18 such as sodium, potassium, and chloride, and a high percentage
19 of sugar to restore energy, in a container greater than or
20 equal to four fluid ounces and less than three liters.

21 (11) Any other liquid that is intended for human consumption
22 and is in a container greater than or equal to four fluid
23 ounces and less than three liters.

24 *b.* For purposes of this chapter, the term "*beverage*"
25 excludes all of the following:

26 (1) A liquid that is a syrup, in a concentrated form,
27 or typically added as a minor flavoring ingredient in food
28 or drink, including but not limited to extracts, cooking
29 additives, sauces, or condiments.

30 (2) A liquid that is a drug, medical food, or infant formula
31 as defined by the federal Food, Drug, and Cosmetic Act, 21
32 U.S.C. §301 et seq.

33 (3) A liquid that is designed and consumed only as a
34 dietary supplement as defined in the Dietary Supplement Health
35 and Education Act of 1994, Pub. L. No. 103-417, and not as a

1 beverage.

2 (4) Instant drink powders.

3 (5) Milk, or any product marketed as a plant-based milk, and
4 all other dairy-derived products, except tea or coffee drinks
5 included in paragraph "a", subparagraph (8).

6 2. "*Beverage container*" means any sealed glass, plastic,
7 or metal bottle, can, jar, or carton containing a beverage.
8 "*Beverage container*" does not include foil pouches or drink
9 boxes.

10 3. "*Commission*" means the alcoholic beverages commission
11 established in chapter 123.

12 4. "*Consumer*" means any person who purchases a beverage in a
13 beverage container for use or consumption.

14 5. "*Dealer*" means any person who engages in the sale of
15 beverages in beverage containers to a consumer.

16 6. "*Division*" means the alcoholic beverages division of the
17 department of commerce established in chapter 123.

18 7. "*Redemption center*" means a business that provides one or
19 more facilities at which consumers may return empty beverage
20 containers and receive payment for the refund value of the
21 empty beverage containers.

22 Sec. 31. NEW SECTION. 123B.2 Refund values — recycling
23 — reimbursement.

24 1. a. A refund value of five cents shall be paid by a
25 consumer to a dealer on each beverage container sold in this
26 state by the dealer for consumption off the premises.

27 b. On a monthly basis, a dealer shall submit to the
28 department of revenue, in a form and manner determined by
29 the department, receipts indicating the number of beverage
30 containers sold by the dealer and the five-cent refund value
31 collected for each beverage container sold by the dealer
32 pursuant to paragraph "a". The department of revenue shall
33 credit monthly to the treasurer of state for deposit in the
34 bottle bill deposit fund established in section 123B.11 the
35 refund value collected from dealers under this paragraph.

1 2. *a.* When a manufacturer transfers beverage containers to
2 a distributor, the manufacturer shall pay to the distributor
3 one-half of one cent per beverage container for each beverage
4 container transferred.

5 *b.* When a distributor delivers beverage containers to a
6 dealer, the dealer shall pay to the distributor one-half of
7 one cent per beverage container for each beverage container
8 delivered.

9 *c.* Within fourteen days of providing an invoice to a dealer
10 for beverage containers delivered to the dealer, a distributor
11 shall submit to the department of revenue, in a form and
12 manner determined by the department, receipts indicating the
13 number of beverage containers delivered to the dealer by the
14 distributor and payment in an amount equal to one and one-half
15 cents for each beverage container delivered to the dealer. The
16 department of revenue shall credit monthly to the treasurer of
17 state for deposit in the bottle bill deposit fund established
18 in section 123B.11 the moneys collected from a distributor
19 under this paragraph.

20 3. A consumer may only redeem the refund value by returning
21 a beverage container to a registered redemption center
22 facility. Upon return of the empty beverage container, upon
23 which a refund value has been paid, to a registered redemption
24 center facility and acceptance of the empty beverage container
25 by the redemption center, the redemption center shall pay the
26 amount of the refund value to the consumer within ten days.

27 4. A redemption center shall dispose of beverage containers
28 by transporting or causing the transport of the beverage
29 containers to a recycling site.

30 5. On a monthly basis, a redemption center shall be
31 reimbursed by the division from the bottle bill deposit fund
32 established in section 123B.11 the amount of refund value that
33 the redemption center has paid to consumers and the handling
34 fee. The division shall establish the handling fee by rule
35 in an amount that is three cents per beverage container,

1 except that the handling fee shall be one cent per beverage
2 container for a redemption center that does not provide refund
3 value to consumers in the form of cash at the time of return.
4 The division may establish accuracy standards to account for
5 discrepancies in the weight of recycled material and the number
6 of beverage containers the redemption center claims to have
7 been recycled.

8 Sec. 32. NEW SECTION. 123B.3 Refusal to accept containers.

9 A redemption center may refuse to accept any empty beverage
10 container that does not have stated on it a refund value as
11 provided under section 123B.4.

12 Sec. 33. NEW SECTION. 123B.4 Refund value stated on
13 container — exceptions.

14 1. Each beverage container sold or offered for sale in
15 this state by a dealer shall clearly indicate the refund
16 value of the container by embossing or by a stamp, label, or
17 other method securely affixed to the container. The division
18 shall specify, by rule, the minimum size of the refund value
19 indication on the beverage containers and require registration
20 of the universal product code for each beverage container in a
21 format required by the division.

22 2. A person, except a distributor, shall not import
23 into this state a beverage container that does not have
24 securely affixed to the container the refund value indication.
25 This subsection does not apply under any of the following
26 circumstances:

27 a. For beverage containers containing alcoholic liquor as
28 defined in section 123.3, subsection 5, the total capacity of
29 the containers is not more than one quart or, in the case of
30 alcoholic liquor personally obtained outside the United States,
31 one gallon.

32 b. For beverage containers containing beer as defined
33 in section 123.3, subsection 7, the total capacity of the
34 containers is not more than two hundred eighty-eight fluid
35 ounces.

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

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

11 Sec. 34. NEW SECTION. 123B.5 **Redemption centers.**

12 1. To facilitate the return of empty beverage containers,
13 any person may register with the division to establish a
14 redemption center facility at which consumers may return empty
15 beverage containers and receive payment of the refund value of
16 such beverage containers.

17 2. *a.* Written notice of the operation of a redemption
18 center facility shall be filed with the division. The notice
19 shall include the information listed in paragraph "*b*". Upon
20 filing a proper notice, the redemption center facility shall be
21 considered registered for purposes of this chapter.

22 *b.* A notice filed under paragraph "*a*" shall be considered
23 proper if it includes all of the following:

24 (1) The name, address, and telephone number of the
25 redemption center facility.

26 (2) The name, address, and telephone number of the person or
27 persons responsible for the establishment and operation of the
28 redemption center facility.

29 (3) An indication that the redemption center facility will
30 accept all kinds, sizes, and brands of beverage containers
31 sold by all dealers within five miles of the redemption center
32 facility if the redemption center facility is in a county
33 with a population of more than thirty thousand or sold by all
34 dealers within ten miles of the redemption center facility if
35 the redemption center facility is in a county with a population

1 of thirty thousand or fewer.

2 (4) The names and addresses of the distributors whose
3 beverage containers will be redeemed.

4 (5) The hours during which the redemption center will be
5 open.

6 (6) An indication that the redemption center facility will
7 be in operation and open to the public for the redemption of
8 beverage containers at least twenty hours per week, four hours
9 of which shall be between the hours of 6:00 p.m. and 10:00 p.m.
10 or on Saturday or Sunday, or a combination thereof.

11 Sec. 35. NEW SECTION. 123B.6 Rules.

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

15 Sec. 36. NEW SECTION. 123B.7 Penalties.

16 1. Except as provided in subsection 2, any person violating
17 the provisions of section 123B.2 or 123B.4, or a rule adopted
18 under this chapter, shall be guilty of a simple misdemeanor.

19 2. Any person who does any of the following acts is guilty
20 of a fraudulent practice under chapter 714:

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

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

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

33 d. Intentionally submits to the division a request for
34 reimbursement of refund value that does not accurately reflect
35 the number of beverage containers collected and recycled by a

1 redemption center for the period that the redemption center
2 seeks reimbursement.

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

7 4. Subsection 2, paragraph "a", does not apply to empty
8 beverage containers that are intended to be refillable
9 and are in a standard of condition to be refillable by the
10 manufacturer, notwithstanding any standard for sanitization.

11 5. A person who violates any provision of this chapter
12 shall be subject to a civil penalty that shall be established,
13 assessed, and collected by the division by rule, but shall not
14 exceed two thousand dollars per violation, except as provided
15 in section 123B.10. Any civil penalty collected under this
16 chapter shall be deposited in the general fund of the state.

17 Sec. 37. NEW SECTION. 123B.8 **Administrative enforcement —**
18 **compliance orders.**

19 1. The administrator of the division may issue any order
20 necessary to secure compliance with or prevent a violation of
21 the provisions of this chapter or any rule adopted or permit
22 or order issued pursuant to this chapter. The person to whom
23 the compliance order is issued may cause to be commenced a
24 contested case within the meaning of chapter 17A by filing
25 within thirty days a notice of appeal to the commission. On
26 appeal, the commission may affirm, modify, or vacate the order
27 of the administrator of the division.

28 2. If a person continues an alleged violation during the
29 appeals process and the commission affirms that the person has
30 committed a violation, the division may assess penalties for
31 each day the violation continued through the appeals process.

32 Sec. 38. NEW SECTION. 123B.9 **Judicial review.**

33 Judicial review of any order or other action of the
34 commission or administrator of the division may be sought in
35 accordance with the terms of chapter 17A. Notwithstanding the

1 terms of chapter 17A, petitions for judicial review may be
2 filed in the district court of the county in which the alleged
3 offense was committed.

4 Sec. 39. NEW SECTION. 123B.10 Civil actions for compliance
5 — penalties.

6 1. The attorney general, on request of the division, shall
7 institute any legal proceedings necessary to obtain compliance
8 with an order of the commission or the administrator of the
9 division, including proceedings for a temporary injunction,
10 or prosecuting any person for a violation of an order of
11 the commission or the administrator of the division or the
12 provisions of this chapter or any rules adopted or permit or
13 order issued pursuant to this chapter.

14 2. Any person who violates an order issued pursuant to
15 section 123B.8 shall be subject to a civil penalty, not to
16 exceed two thousand five hundred dollars for each day of such
17 violation.

18 Sec. 40. NEW SECTION. 123B.11 Refund value payment program
19 — fund created.

20 1. The division shall establish and administer a refund
21 value payment program. The purpose of the program shall be
22 to administer payments of refund value and handling fees to
23 redemption centers after the redemption centers accept empty
24 beverage containers from consumers. The program shall be
25 administered in accordance with rules adopted by the commission
26 pursuant to chapter 17A.

27 2. A bottle bill deposit fund is established in the state
28 treasury under the control of the division. The fund shall
29 consist of moneys deposited in the fund pursuant to section
30 123B.2 and any other moneys appropriated to or deposited in
31 the fund. Moneys in the fund are appropriated to the division
32 for purposes designated in subsection 4. Notwithstanding
33 section 8.33, moneys in the fund that remain unencumbered or
34 unobligated at the close of a fiscal year shall not revert
35 but shall remain available for expenditure for the purposes

1 designated. Notwithstanding section 12C.7, subsection 2,
2 interest or earnings on moneys in the fund shall be credited
3 to the fund.

4 3. A bottle bill cash reserve account is established
5 within the bottle bill deposit fund. Moneys in the bottle
6 bill deposit fund on July 1, 2025, shall be deposited in the
7 account. The division shall use moneys in the account in the
8 event that the other moneys in the bottle bill deposit fund
9 are insufficient to issue reimbursement and handling fees
10 to redemption centers. At the end of each fiscal year, the
11 account shall be replenished to the original amount deposited
12 on July 1, 2025, from the other moneys in the bottle bill
13 deposit fund if such other moneys are available.

14 4. Moneys in the fund shall be used by the division for all
15 of the following purposes:

16 a. Issuing reimbursement of refund value to a redemption
17 center after the redemption center accepts empty beverage
18 containers from and pays the refund value to a consumer.

19 b. Issuing the handling fee to a redemption center for each
20 beverage container that a redemption center accepts from a
21 consumer.

22 c. Covering administrative costs to administer the refund
23 value payment program in an amount determined by the commission
24 by rule.

25 d. Providing grants to expand redemption capacity in
26 underserved areas.

27 e. Providing grants to nonprofit organizations to engage in
28 litter collection in public areas.

29 f. Providing reimbursement for actual and necessary expenses
30 incurred by members of the committee established in section
31 123B.12 in the performance of their duties.

32 g. Replenishing the bottle bill cash reserve account when
33 necessary.

34 Sec. 41. NEW SECTION. 123B.12 Bottle bill advisory
35 committee.

1 1. The division shall establish a bottle bill advisory
2 committee. The division shall determine by rule how many
3 members shall serve on the committee and the length of terms
4 for the members. The committee shall include at least one
5 member involved in the manufacturing of beverages, one member
6 involved in the distribution of beverage containers, one
7 member involved in the sale of beverage containers, one member
8 involved in the redemption of beverage containers, one member
9 involved in the recycling of beverage containers, and one
10 member representing consumer interests.

11 2. The members of the committee shall be reimbursed for
12 actual and necessary expenses incurred in the performance of
13 their duties. Expenses shall be paid by the division from the
14 bottle bill deposit fund created in section 123B.11.

15 3. The committee shall meet at least once each year to
16 review the status of the beverage containers control law
17 as provided in this chapter. The committee shall submit
18 any recommended changes to the division and to the general
19 assembly.

20 Sec. 42. NEW SECTION. 123B.13 Auditing.

21 The auditor of state may establish rules to allow for
22 periodic auditing of entities receiving moneys under section
23 123B.11, subsection 4.

24 Sec. 43. NEW SECTION. 455D.9B Disposal of beverage
25 containers at sanitary landfill prohibited.

26 The final disposal of beverage containers, as defined in
27 section 123B.1, including the final disposal of beverage
28 containers that used to contain alcoholic liquor as defined in
29 section 123.3, subsection 5, by a redemption center, as defined
30 in section 123B.1, in a sanitary landfill is prohibited.

31 Sec. 44. EFFECTIVE DATE. This division of this Act takes
32 effect January 1, 2024.>

By ISENHART of Dubuque

H-8307 (Continued)

H-8307 FILED MARCH 30, 2022



[SF 2378](#) – Beverage Container Control, Bottle Bill (LSB5962SV.1)
Staff Contact: Austin Brinks (515.725.2200) austin.brinks@legis.iowa.gov
Fiscal Note Version – As amended and passed by the Senate (Corrected Description)

Description

[Senate File 2378](#) adds high alcoholic content beer and canned cocktails to the definition of “beverage” in Iowa Code chapter [455C](#) and creates a definition for “participating dealer.” The Bill raises the handling fee associated with redeeming empty beverage containers to three cents when paid to a redemption center and requires a person who attempts to redeem 2,000 or more empty containers in one transaction with a participating dealer or redemption center to provide proof of residency prior to receiving a refund. The Bill allows a dealer to refuse to accept empty beverage containers on or after July 1, 2023. The Bill requires the registration of universal product codes (UPC) for each beverage container in a format determined by the Iowa Department of Revenue (IDR) on and after November 15, 2023. The Bill also decreases the barrel tax on beer from \$5.89 to \$4.03 per barrel. The section of this Bill decreasing the barrel tax on beer is effective on July 1, 2023.

The Bill allows a person to establish a redemption center without the approval of the Department of Natural Resources (DNR) but requires a notice to be submitted to the DNR providing information on the person responsible for the redemption center, as well as the dealers served by the center. On and after July 1, 2023, a redemption center does not need to provide the names and addresses of dealers to be served by the redemption center. The Bill creates a civil penalty of \$2,000 per day for the violation of Iowa Code chapter 455C and allows the DNR to issue compliance orders, subject to judicial review. The Bill also creates a serious misdemeanor and a civil penalty of \$5,000 per violation for a person who attempts to redeem beverage containers obtained from outside the State. The Bill allows any amount of refund value or handling fees possessed by a distributor left over after the distributor has made all necessary payments to be the property of the distributor.

In addition, the Bill repeals Iowa Code sections [455C.7](#) relating to unapproved redemption centers, [455C.10](#) relating to appealing an order of the DNR regarding the approval or withdrawal of approval for a redemption center, and [455C.6\(3\)](#) and [455C.6\(4\)](#) relating to approvals of redemption centers by the DNR.

Background

Currently, when a dealer or redemption center accepts a beverage container from a consumer, the dealer or redemption center is required to pay the consumer the five-cent refund value of the beverage containers in a timely manner. Distributors pay a one-cent handling fee to a dealer or redemption center in addition to the refund value of the beverage container. Anyone may establish a redemption center subject to the approval of the DNR by submitting an application to the DNR. The DNR may approve a redemption center if the DNR finds that the redemption center provides a convenient service to consumers for the return of empty beverage containers. The DNR may withdraw approval if the Environmental Protection Commission (EPC) finds the redemption center to be out of compliance with the DNR’s approving order or finds that the redemption center no longer provides a convenient service to the public. Anyone may open a redemption center that has not been approved by the DNR, but an unapproved redemption

center does not relieve a dealer of the responsibility of redeeming any empty beverage container if the dealer sells that kind and brand of beverage.

Under current Iowa Code section [455C.12](#), violating refund law results in a simple misdemeanor, which carries a fine of at least \$105 but not to exceed \$855. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine. In FY 2021, there was one conviction for violation of Iowa Code chapter 455C.

Assumptions

- There may be an unknown increase in revenue to the State General Fund due to civil penalties associated with compliance orders.
- There may be an unknown increase in fine revenue to the State General Fund due to the creation of a serious misdemeanor.
- There will be a decrease in tax revenue to the General Fund beginning in FY 2024 and annually thereafter as a result of lowering the barrel tax on beer from \$5.89 per barrel to \$4.03 per barrel. The Alcoholic Beverages Division (ABD) provided an estimate based on the average gallons of beer sold from FY 2015 to FY 2021.
- The ABD estimates it will incur a one-time expense of \$65,000 for Information Technology (IT) updates.
- There may be additional costs incurred by the IDR for the creation and maintenance of a UPC database; however, the impact is expected to be minimal.

Correctional Impact

Senate File 2378 creates a new serious misdemeanor; however, due to a lack of conviction data, a correctional impact cannot be estimated. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 18, 2022, for information related to the correctional system.

Minority Impact

Senate File 2378 establishes a serious misdemeanor, but it is unknown how many convictions may occur. As a result, the minority impact of SF 2378 cannot be estimated. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 18, 2022, for information related to minorities in the criminal justice system.

Fiscal Impact

Table 1 shows the estimated cost to the DNR of 2.0 full-time equivalent (FTE) Environmental Specialist positions required to address violations of Iowa Code chapter 455C. The table also includes a 0.5 FTE position for an Attorney 2 position for the legal enforcement of administrative orders.

Estimated Fiscal Impact of SF 2378 to State Agencies	
	FY 2023
<u>DNR</u>	
2.0 Environmental Specialists	\$ 127,000
0.5 Attorney 2	43,000
Total Annual Expense	\$ 170,000
<u>ABD</u>	
One-time IT expense	65,000
Total First Year Expense	\$ 235,000

There may be an increase in revenue due to civil penalties and fines created in the Bill; however, it is unknown how many civil penalties and fines may be incurred, so the increase in revenue is unknown. A serious misdemeanor without a specific penalty can result in a fine of between \$430 to \$2,560; in addition, the court may order imprisonment not to exceed one year. **Table 2** shows the average cost to the State for a serious misdemeanor.

Table 2 — Average State Cost Per Offense Type

Offense Class	Total Cost	
	Minimum	Maximum
Serious Misdemeanor	\$410	\$7,000

The \$1.86 per barrel decrease in barrel tax on beer is estimated to reduce revenue to the General Fund by approximately \$4.3 million starting in FY 2024 and annually thereafter, and a decrease of approximately \$31,000 starting in FY 2024 and annually thereafter to the Iowa Economic Development Authority Fund due to reduced revenue from the Native Beer Tax.

Sources

Legislative Services Agency
 Department of Natural Resources
 Alcoholic Beverages Division, Department of Commerce
 Department of Revenue

/s/ Holly M. Lyons

March 30, 2022

Doc ID 1289138

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

www.legis.iowa.gov



[HF 2239](#) – Rape Shield Protection (LSB5279HV.1)
Staff Contact: Isabel Waller (515.281.6561) isabel.waller@legis.iowa.gov
Fiscal Note Version – As amended by Senate amendment [H-8290](#)

Description

[House File 2239](#) as amended by Senate amendment [H-8290](#) applies the provisions of the rule of evidence 5.412 relating to the victim’s past sexual behavior in sexual abuse cases to discovery conducted in a criminal case or in a postconviction relief proceeding, including depositions. The Bill as amended also applies substantially the same procedural requirements of evidence to be offered at trial to discovery involving evidence subject to rule of evidence 5.412.

The Bill as amended also relates to the admissibility of evidence in the prosecution for physical abuse or a sexual offense upon or against a child, a person with an intellectual disability, a person with a cognitive impairment, or a person with a developmental disability. The Bill as amended creates a new exception to the hearsay rule in such cases by allowing testimony by the victim concerning an out-of-court statement made by the victim to another person that is an initial disclosure of the offense regarding the occurrence of the offense and by allowing testimony by another person concerning an out-of-court statement made by the victim that is an initial disclosure of an offense charged for physical or sexual offense against the victim.

Background

In Iowa’s [Rules of Evidence](#), rule 5.412 relates to sexual abuse cases and the victim’s past sexual behavior. According to the rule, the following evidence is not admissible in criminal cases, with some exceptions: reputation or opinion evidence offered to prove that a victim engaged in other sexual behavior, and evidence of a victim’s other sexual behavior other than reputation or opinion evidence.

However, the court may admit the following in a criminal case:

- Evidence of specific instances of a victim’s sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence.
- Evidence of specific instances of a victim’s sexual behavior with respect to the person accused of sexual abuse, if the defendant offers it to prove consent.
- Evidence whose exclusion would violate the defendant’s constitutional rights.

Rule 5.412 lays out the procedure to determine admissibility for these exceptions, which includes filing a motion to offer the evidence at least 14 days before trial and conducting a hearing in camera to determine if the evidence is admissible.

According to Iowa’s Rules of Evidence, hearsay is a statement that the declarant does not make while testifying at the current trial or hearing that a party offers into evidence to prove the truth of the matter asserted in the statement. Hearsay is not admissible in court unless the Iowa Constitution, a statute, the Iowa Rules of Evidence, or an Iowa Supreme Court rule provides an exception.

Assumptions

- The provisions of House File 2239 as amended related to the rule of evidence 5.412 could impact the Office of the State Public Defender in cases in which sexual abuse is charged and contested, including pretrial, trial, post-trial, and postconviction proceedings.
- The Bill as amended provides that the rules of evidence as to admissibility also apply at the discovery stage, which could increase attorney time for State Public Defender attorneys and contract attorneys.
- The provisions of the Bill as amended related to a new exception to the hearsay rule allow additional evidence to be used against a person accused of certain physical abuse offenses or sexual offenses.
- The Bill as amended could increase the number of charges for physical abuse and sexual offenses that are prosecuted.
- The provisions of the Bill as amended related to the hearsay rule may cause the Office of the State Public Defender to provide indigent defense in an increased number of cases.

Fiscal Impact

The fiscal impact of HF 2239 as amended to the Office of the State Public Defender cannot be determined at this time due to a lack of data. However, the impact of the provisions related to the rule of evidence 5.412 to indigent defense costs is likely to be significant. This will affect the State Public Defender operating budget and the Indigent Defense Fund, which are both funded through the General Fund. The impact of the provision related to a new exception to the hearsay rule will also likely impact indigent defense costs by increasing the number of cases the State Public Defender will provide indigent defense for. **Table 1** provides the increase in cost of this provision to the Indigent Defense Fund for an additional offense charged against an indigent defendant for each offense class.

Table 1 — Cost to Indigent Defense Fund Per Additional Case

Offense Class	Average Cost
Class A Felony	\$ 21,600
Class B Felony	3,300
Class C Felony	2,000
Class D Felony	1,500
Aggravated Misdemeanor	500

Sources

Office of the State Public Defender
Legislative Services Agency

/s/ Holly M. Lyons

March 30, 2022

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

www.legis.iowa.gov