



Joe Strunk

# STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

January 7, 2013

PAUL J. STRUNK, OWNER  
MAIN AVENUE REDEMPTION  
1621 MAIN AVENUE  
CLINTON, IA 52732

## RE: EXTRA CHARGES BETWEEN DISTRIBUTORS AND REDEMPTION CENTERS

Dear Mr. Strunk:

This is in response to your correspondence dated December 19, 2012. You described the situation where beverage distributors have charged your containers redemption center for collection bags, and you have been performing container sorting services, beyond simply sorting by distributor, for which you seek compensation from the distributors. You are requesting the position of the Dept. of Natural Resources (DNR) on these questions.

Initially, please know that as a matter of policy the DNR does not get directly involved in these kinds of situations. The way the Beverage Containers Control Law, Iowa Code Chapter 455C, is supposed to work is based on an expectation that people at the local level will deal with each other in good faith without any intervention by the State.

The Law is, however, a State-created structure. Accordingly, the DNR provides guidance on the implementation of the Law. In the situation you describe, the basic statutory issue is that nothing in Iowa Code Chapter 455C says anything about bags or any other sort of receptacle into which redemption centers would put the empties that they sort out for distributors to pick up. Indeed, the **only** legal duty redemption centers have is to sort the cans and bottles by distributor; see section 455C.3(2) and Iowa Administrative Code 567-107.9; full copies attached.

What fills in where the law lacks specificity is the application of reasonableness. Redemption centers have no legal authority to increase their revenue to cover all of the rising costs of being in business. The penny per container handling fee from distributors has been set by statute since **1979**; Iowa Code section 455C.2(2). It is unreasonable for distributors to require redemption centers to take on more costs, especially when there is no lawful authority for that.

And more to the direct legal point, distributors must pay redemption centers the full penny per each container. If a distributor imposes a fee for bags or any other kind of charge on a redemption center, a portion of the full due compensation is **illegally cut**.

Unlawfully failing to pay the full 1¢ per container would be a simple misdemeanor under Iowa Code sections 455C.2, 455C.3, and 455C.12; minimum \$65 fine according to Iowa Code section 903.1(1)(a). Citations for simple misdemeanors are issued by local law enforcement upon a person filing a complaint. The DNR has no enforcement powers in these matters.

Local law enforcement can be reluctant to cite violations of the Containers Control Law, often because they are unfamiliar with its provisions, which is why copies of the law and rules are attached for your reference. It can be important to get local law enforcement to understand that these violations are no different from shoplifting, vandalism or any other petty crime.

Even when local law enforcement declines to issue a citation, just getting them to call on the distributor to advise them of the law and its potential consequences could get them to change their illegal practices. You might also consider getting together with other redemption centers facing the same violations of law to present a united effort that would be harder for the distributors to dismiss.

In previously published DNR answers to 'Frequently Asked Questions', we stated that, Distributors can provide bags, charge a fully refundable deposit for bags, or allow the redemption center to use some other type of container.

And I've recently gotten the advice from our in-house attorney that, If the distributors don't want to provide bags, redemption centers can sort into piles or bins and let the distributor package them on pick up.

If a distributor wants its sorted empties to be packaged in some particular way, the distributor needs to provide for that. Under no circumstances can a distributor get away with paying less than the full 1¢ per container.

There is also an option of filing a small claims lawsuit against a distributor, because they have breached their duty under Iowa Code Chapter 455C. Information in the copies of the invoices you included with your correspondence could enable you to calculate your cumulative damages from the distributors unlawfully depriving you of the full payments due. Staff at your local County Clerk of Courts can guide you through the process of filing a small claims action without necessarily having to use an attorney.

Note again that your only legal duty is to sort empties according to distributor. Distributors have no lawful authority to require you to do any other sorting of cans from bottles, or glass from plastic, etc.

By the same token, although you have been doing this extra sorting without compensation from the distributors, you may not necessarily have support in the statute for charging the distributors for those services. Under the Beverage Containers Control Law, you would be within your rights to just stop doing that extra sorting. If distributors want the extra sorting, they should be willing to pay extra for that, but only as a mutually agreed upon business transaction.

If there are any other questions, please contact me at (515) 281-8176 or e-mail [bill.blum@dnr.iowa.gov](mailto:bill.blum@dnr.iowa.gov).

Sincerely,



Bill Blum, program planner  
DNR Land Quality Bureau

Enclosures.