

# House Study Bill 142

## Bill Text

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1 1 Section 1. Section [123.24](#), subsection 5, Code 2001, is  
1 2 amended by striking the subsection.  
1 3 Sec. 2. Section [455C.1](#), subsections 1 and 2, Code 2001,  
1 4 are amended to read as follows:  
1 5 1. "Beverage" means wine as defined in section 123.3,  
1 6 subsection 37, alcoholic liquor as defined in section 123.3,  
1 7 subsection 5, beer as defined in section 123.3, subsection 7,  
1 8

~~mineral water, soda water and similar carbonated soft drinks~~

1 9 and any nonalcoholic carbonated and noncarbonated drinks  
1 10 excluding milk and dairy-derived products in liquid form and  
1 11 intended for human consumption. "Beverage" shall not include  
1 12 any of the following:  
1 13 a. A liquid which is any of the following:  
1 14 (1) A syrup.  
1 15 (2) In a concentrated form.  
1 16 (3) Typically added as a minor flavoring ingredient in  
1 17 food or drink, such as extracts, cooking additives, sauces, or  
1 18 condiments.  
1 19 b. A liquid which is ingested in very small quantities and  
1 20 which is consumed for medicinal purposes only.  
1 21 c. A liquid which is designed and consumed only as a  
1 22 nutritional supplement and not as a beverage.  
1 23 d. Products frozen at the time of sale to the consumer,  
1 24 or, in the case of institutional users such as hospitals and  
1 25 nursing homes, at the time of sale to such users.  
1 26 e. Products designed to be consumed in a frozen state.  
1 27 f. Instant drink powders.  
1 28 g. Seafood, meat, or vegetable broths or soups but not  
1 29 juices.  
1 30 h. Farm-produced apple cider, which has not been heated,  
1 31 pasteurized, or otherwise processed.  
1 32 2. "Beverage container" means any sealed glass, plastic,  
1 33 or metal bottle, can, or jar

~~or carton~~

- containing a beverage.

1 34 Sec. 3. Section [455C.1](#), Code 2001, is amended by adding  
1 35 the following new subsections:

2 1 NEW SUBSECTION. 4A. "Container handler" means a person  
2 2 approved by the department who collects empty beverage  
2 3 containers from a redemption center.

2 4 NEW SUBSECTION. 11A. "Milk and dairy-derived products"  
2 5 means whole milk, skim milk, low-fat milk, cream, or any  
2 6 combination thereof. "Milk and dairy-derived products" also  
2 7 means products of which the single largest ingredient is whole  
2 8 milk, milk fat, or milk with varying percentages of milk fat.

2 9 Sec. 4. Section [455C.3](#), Code 2001, is amended by striking  
2 10 the section and inserting in lieu thereof the following:

2 11 455C.3 CONTAINER REDEMPTION FUND.

2 12 1. A container redemption fund is established in the state  
2 13 treasury under the control of the department consisting of any  
2 14 moneys received by the department from dealers pursuant to  
2 15 this section. Moneys in the fund shall be considered to be

2 16 held by the state on behalf of the consumers purchasing a  
2 17 beverage container from a dealer. Notwithstanding section  
2 18 8.33, all moneys in the fund, which remain unexpended or  
2 19 unobligated at the close of the fiscal year, shall not revert  
2 20 but shall remain available for expenditure for subsequent  
2 21 fiscal years. Notwithstanding section 12C.7, interest or  
2 22 earnings on moneys in the fund shall be credited to the fund.  
2 23 The fund shall be used for purposes of disbursing moneys to a  
2 24 container handler or redemption center as provided in section  
2 25 455C.4.

2 26 2. By the seventh day of each month, a dealer shall pay  
2 27 the department six cents for each beverage container sold by  
2 28 the dealer during the previous month. The department shall  
2 29 immediately deposit moneys received from a dealer in the  
2 30 container redemption fund.

2 31 3. Not more than one week after a container handler  
2 32 accepts empty beverage containers from a redemption center,  
2 33 the container handler shall submit a report to the department  
2 34 detailing the number of beverage containers collected from the  
2 35 redemption center. The collection data shall be broken down  
3 1 according to redemption center and shall contain the name and  
3 2 address of the person operating the redemption center. The  
3 3 department shall prescribe a form for reporting collection  
3 4 information to the department. Information submitted on  
3 5 reports filed pursuant to this subsection shall serve as the  
3 6 basis for determining payments made to container handlers and  
3 7 redemption centers pursuant to section 455C.4.

3 8 4. Not more than one week after a redemption center sells  
3 9 an empty beverage container to a person other than a container  
3 10 handler, the redemption center shall submit a report to the  
3 11 department detailing the number of beverage containers sold  
3 12 and to whom the beverage containers were sold. Information  
3 13 submitted on reports filed pursuant to this subsection shall  
3 14 serve as the basis for determining payments made to redemption  
3 15 centers pursuant to section 455C.4.

3 16 5. As of July 1 of each fiscal year, the department shall  
3 17 determine the final balance of the fund for the end of the  
3 18 previous fiscal year. One half of the balance shall be deemed  
3 19 to constitute abandoned refund value and is appropriated and  
3 20 may be allocated by the department to support programs  
3 21 administered by the department relating to recycling, solid  
3 22 waste, and litter and to monitor a pilot project established  
3 23 pursuant to section 455C.17.

3 24 Sec. 5. Section [455C.4](#), Code 2001, is amended by striking  
3 25 the section and inserting in lieu thereof the following:

3 26 455C.4 REDEMPTION.

3 27 1. A refund value of not less than five cents shall be  
3 28 paid by the consumer on each beverage container sold in this  
3 29 state by a dealer for consumption off the premises.

3 30 2. A consumer may redeem an empty beverage container only  
3 31 at a redemption center. A redemption center shall pay the  
3 32 refund value to a consumer for every empty beverage container  
3 33 accepted by the redemption center.

3 34 3. A redemption center shall not refuse to accept any kind  
3 35 of empty beverage container covered by this chapter that meets  
4 1 the requirements of section 455C.5. At all redemption centers  
4 2 served by a container handler, the container handler shall, at  
4 3 least once a week, collect empty beverage containers accepted  
4 4 by the redemption center and report the number of containers  
4 5 collected at each redemption center as required in section  
4 6 455C.3.

4 7 4. The department shall pay a recycling reimbursement to  
4 8 the container handler of one cent for each empty beverage  
4 9 container received by the container handler from a redemption  
4 10 center. The recycling reimbursement shall be paid out of  
4 11 moneys in the container redemption fund.

4 12 5. The department shall pay five cents to a redemption

4 13 center for each empty beverage container collected from the  
4 14 redemption center by a container handler or sold to a person  
4 15 other than a contain handler. In addition, the department  
4 16 shall pay a handling reimbursement to a redemption center of  
4 17 one cent for each empty beverage container collected from the  
4 18 redemption center by a container handler. All payments made  
4 19 pursuant to this subsection shall be paid out of moneys in the  
4 20 container redemption fund.

4 21 Sec. 6. Section 455C.5, subsections 1 and 3, Code 2001,  
4 22 are amended to read as follows:

4 23 1. Each beverage container sold or offered for sale in  
4 24 this state by a dealer shall clearly indicate by embossing or  
4 25 by a stamp, label or other method securely affixed to the  
4 26 container, the refund value of the container. The department  
4 27 shall specify, by rule, the minimum size and contrast of the  
4 28 refund value indication on the beverage containers. The  
4 29 embossing, stamp, label, or other method shall be clear,  
4 30 conspicuous, and in significant color contrast.

4 31 3. The provisions of subsections 1 and 2

~~of this section~~

4 32 do not apply to

~~a refillable glass beverage container which~~

4 33

~~has a brand name permanently marked on it and which has a~~

4 34

~~refund value of not less than five cents, to any other~~

4 35

~~refillable beverage container which has a refund value of not~~

5 1

~~less than five cents and which is exempted by the director~~

5 2

~~under rules adopted by the commission, or to~~

~~a beverage~~

5 3 container sold aboard a commercial airliner or passenger train  
5 4 for consumption on the premises.

5 5 4. A distributor shall not sell or offer for sale to a  
5 6 dealer in this state a beverage container if the distributor  
5 7 sells the same beverage container meeting the labeling  
5 8 requirements of this section in a state that does not have a  
5 9 beverage container redemption system.

5 10 Sec. 7. Section 455C.6, Code 2001, is amended to read as  
5 11 follows:

5 12 455C.6 REDEMPTION CENTERS.

5 13 1. To facilitate the return of empty beverage containers  
5 14

~~and to serve dealers of beverages~~

~~-, any person may establish a~~

5 15 redemption center, subject to the approval of the department,  
5 16 at which consumers may return empty beverage containers and  
5 17 receive payment of the refund value of such beverage  
5 18 containers. Except as provided in section 455C.6B, a  
5 19 redemption center shall not be owned or operated by a dealer.

5 20 2. An application for approval of a redemption center

5 21 shall be filed with the department. The application shall  
5 22 state the name and address of the person responsible for the  
5 23 establishment and operation of the redemption center

~~, the kind~~

5 24

~~and brand names of the beverage containers which will be~~

5 25

~~accepted at the redemption center, and the names and addresses~~

5 26

~~of the dealers to be served by the redemption center~~

~~The~~

5 27 application shall provide a plan for selling or transferring  
5 28 beverage containers received from consumers. The application  
5 29 shall contain such other information as the director may  
5 30 reasonably require.

5 31 3. The department shall approve a redemption center if it  
5 32 finds that the redemption center will provide a convenient  
5 33 service to consumers for the return of empty beverage  
5 34 containers.

~~The order of the department approving a~~

5 35

~~redemption center shall state the dealers to be served by the~~

6 1

~~redemption center and the kind and brand names of empty~~

6 2

~~beverage containers which the redemption center must accept.~~

6 3 The order approving a redemption center may contain

~~such other~~

6 4 provisions to

~~insure~~

~~ensure~~ that the redemption center will

6 5 provide a convenient service to the public as the director may  
6 6 determine.

6 7 4. The department may review the approval of any  
6 8 redemption center at any time. After written notice to the  
6 9 person responsible for the establishment and operation of the  
6 10 redemption center

~~, and to the dealers served by the redemption~~

6 11

~~center~~

~~the~~ commission may, after hearing, withdraw approval

6 12 of a redemption center if the commission finds there has not  
6 13 been compliance with the department's order approving the  
6 14 redemption center, or if the redemption center no longer  
6 15 provides a convenient service to the public.

6 16 5. All approved redemption centers shall meet applicable

6 17 health standards.

6 18 6. Any redemption center approved after January 1, 2001,  
6 19 shall not sell or offer for sale to a consumer any beverage  
6 20 sold in multiple unit packages.

6 21 Sec. 8. NEW SECTION. 455C.6A CONTAINER HANDLERS.

6 22 1. An application for approval of a container handler  
6 23 shall be filed with the department. The application shall  
6 24 state the name and address of the container handler and the  
6 25 names and addresses of the redemption centers to be served by  
6 26 the container handler. The application shall contain such  
6 27 other information as the director may reasonably require.

6 28 2. The department shall approve a container handler if the  
6 29 department finds that the container handler will provide a  
6 30 convenient service to a significant number of redemption  
6 31 centers. An order of the department approving a container  
6 32 handler may contain any provisions necessary to ensure that  
6 33 the container handler will provide a convenient service to the  
6 34 redemption centers as the director may determine.

6 35 Sec. 9. NEW SECTION. 455C.6B DEALERS AS REDEMPTION  
7 1 CENTERS.

7 2 For a period of fours years following the effective date of  
7 3 this Act, a dealer shall serve as a redemption center if the  
7 4 dealer is located in an area determined by the department to  
7 5 be underserved by approved redemption centers.

7 6 Sec. 10. NEW SECTION. 455C.11 REFILLABLE BEVERAGE  
7 7 CONTAINERS.

7 8 Refillable beverage containers shall not be subject to the  
7 9 provisions of this chapter.

7 10 Sec. 11. Section 455C.12, subsections 1, 2, 3, and 5, Code  
7 11 2001, are amended to read as follows:

7 12 1. Any person violating the provisions of section

~~455C.2,~~

7 13 455C.3, 455C.4, 455C.5, and 455C.8, or a rule adopted under  
7 14 this chapter shall be guilty of a simple misdemeanor.

7 15 2.

~~A distributor~~

~~- An owner or operator of a redemption~~

7 16 center who collects or attempts to collect a refund value on  
7 17 an empty beverage container when the

~~distributor~~

~~- redemption~~

7 18 center has paid the refund value on the container to a

~~dealer,~~

7 19

~~redemption center, or~~

~~- consumer is guilty of a fraudulent~~  
7 20 practice.

7 21 3. Any person who does any of the following acts is guilty  
7 22 of a fraudulent practice:

7 23 a. Collects or attempts to collect the refund value on the  
7 24 container a second time, with the knowledge that the refund  
7 25 value has once been paid by the

~~distributor~~

~~- redemption center~~

7 26 to a

~~dealer, redemption center or~~

~~- consumer.~~

7 27 b. Manufactures, sells, possesses, or applies a false or

7 28 counterfeit label or indication which shows or purports to  
7 29 show a refund value for a beverage container, with intent to  
7 30 use the false or counterfeit label or indication.  
7 31 c. Collects or attempts to collect a refund value on a  
7 32 container with the use of a false or counterfeit label or  
7 33 indication showing a refund value, knowing the label or  
7 34 indication to be false or counterfeit.  
7 35

~~5. Subsection 2 and subsection 3, paragraph "a" of this~~

~~8 1~~

~~section have no application to empty beverage containers which~~

~~8 2~~

~~are intended to be refillable and are in a standard of~~

~~8 3~~

~~condition except for sanitization to be refillable by the~~

~~8 4~~

~~manufacturer.~~

8 5 Sec. 12. NEW SECTION. 455C.17 PILOT PROJECT.

8 6 The department may establish a pilot project which would  
8 7 allow a solid waste planning area to function as a redemption  
8 8 center in terms of accepting empty beverage containers from  
8 9 consumers, paying the refund value to consumers, and receiving  
8 10 moneys from the container redemption fund for which redemption  
8 11 centers are eligible pursuant to section 455C.4, subsection 5.  
8 12 Sec. 13. DISTRIBUTOR PAYMENTS. On January 2, 2002, any  
8 13 distributor providing a beverage container to a dealer in the  
8 14 state during the calendar year 2001 shall pay the department  
8 15 an amount equal to six cents per beverage container for ninety  
8 16 percent of all beverage containers that were distributed by  
8 17 the distributor during the calendar year 2001 and that had not  
8 18 been redeemed as of December 31, 2001. This section applies  
8 19 to distributors, dealers, and beverage containers, as defined  
8 20 in section [455C.1](#), Code 2001.

8 21 Sec. 14. Sections 455C.2 and 455C.7, Code 2001, are  
8 22 repealed.

8 23 Sec. 15. APPLICABILITY. This Act takes effect January 1,  
8 24 2002.

8 25 EXPLANATION

8 26 This bill amends Code chapter 455C, which relates to the  
8 27 beverage container control law. The bill replaces the current  
8 28 system for redeeming and recycling beverage containers with a  
8 29 new system.

8 30 The bill expands the list of beverages whose containers are  
8 31 regulated under Code chapter 455C. The newly regulated  
8 32 beverages include any nonalcoholic carbonated and  
8 33 noncarbonated drinks excluding milk and dairy-derived  
8 34 products. The bill lists a number of specific types of  
8 35 liquids which do not fall under the definition of "beverage".

9 1 The bill creates a container redemption fund in the state  
9 2 treasury under the control of the department of natural  
9 3 resources. The bill provides that the fund shall consist of  
9 4 moneys received by the department from dealers. The bill  
9 5 provides that moneys in the fund shall be considered to be  
9 6 held by the state on behalf of the consumers purchasing a  
9 7 beverage container from a dealer. The bill provides that, as  
9 8 of July 1 of each fiscal year, the department shall determine  
9 9 the final balance of the fund for the end of the previous

9 10 fiscal year. The bill provides that one half of the balance  
9 11 shall be deemed to constitute abandoned refund value and is  
9 12 appropriated and may be allocated by the department to support  
9 13 programs administered by the department relating to recycling,  
9 14 solid waste, and litter and to monitor a pilot project  
9 15 established pursuant to the bill.

9 16 The bill provides that a refund value of not less than five  
9 17 cents shall be paid by the consumer on each beverage  
9 18 container. The bill provides that only redemption centers  
9 19 shall be used for redeeming empty beverage containers and that  
9 20 the redemption center shall pay the refund value to consumers.

9 21 The bill provides that, by the seventh day of each month,  
9 22 the dealer shall pay the department 6 cents for each container  
9 23 sold by the dealer during the previous month. The bill  
9 24 provides that, not more than one week after a container  
9 25 handler accepts empty beverage containers from a redemption  
9 26 center, the container handler shall submit a report to the  
9 27 department detailing the number of containers collected from  
9 28 redemption centers. The bill provides that a container  
9 29 handler is a person approved by the department who collects  
9 30 empty beverage containers from a redemption center. The bill  
9 31 provides that not more than one week after a redemption center  
9 32 sells an empty beverage container to a person other than a  
9 33 container handler, the redemption center shall submit a report  
9 34 to the department detailing the number of containers sold and  
9 35 to whom the containers were sold.

10 1 The bill provides that the department shall pay a recycling  
10 2 reimbursement, from moneys in the container redemption fund,  
10 3 to a container handler of 1 cent for each empty beverage  
10 4 container collected from a redemption center by the container  
10 5 handler. The bill provides that the department shall pay,  
10 6 from moneys in the container redemption fund, 5 cents per  
10 7 container plus a 1 cent per container handling reimbursement  
10 8 to a redemption center for each empty container collected from  
10 9 the redemption center by a container handler. The bill  
10 10 provides that the department shall pay, from moneys in the  
10 11 container redemption fund, 5 cents per container for each  
10 12 empty container sold to a person other than a container  
10 13 handler.

10 14 The bill amends provisions of the Code relating to the  
10 15 container labeling requirements. The bill requires that the  
10 16 labeling be clear, conspicuous, and in significant color  
10 17 contrast. The bill prohibits a distributor from selling or  
10 18 offering for sale to a dealer in Iowa a beverage container if  
10 19 the distributor sells the same beverage container meeting  
10 20 Iowa's labeling requirements in a state that does not have a  
10 21 beverage container redemption system.

10 22 The bill makes conforming amendments to provisions relating  
10 23 to redemption centers. The bill also provides that a  
10 24 redemption center approved after January 1, 2001, shall not  
10 25 sell or offer for sale to a consumer any beverage sold in  
10 26 multiple unit packages. The bill prohibits a dealer from  
10 27 owning or operating a redemption center with the exception of  
10 28 a dealer located in an area determined by the department to be  
10 29 underserved by redemption centers. The bill requires, during  
10 30 the four-year period following the effective date of the bill,  
10 31 dealers located in underserved areas to serve as redemption  
10 32 centers.

10 33 The bill provides an application and approval process for  
10 34 container handlers.

10 35 The bill provides that refillable beverage containers shall  
11 1 not be subject to the provisions of Code chapter 455C.

11 2 The bill allows the department to establish a pilot project  
11 3 which would allow a solid waste planning area to function as a  
11 4 redemption center.

11 5 The bill provides that, on January 2, 2002, any distributor  
11 6 providing a beverage container to a dealer in the state during

11 7 calendar year 2001, under prior law, shall pay the department  
11 8 an amount equal to 6 cents per container for 90 percent of all  
11 9 containers that were distributed by the distributor during the  
11 10 calendar year 2001 and that had not been redeemed as of  
11 11 December 31, 2001.

11 12 The bill eliminates a bottle surcharge included in the  
11 13 price of alcoholic liquor used by the alcoholic beverages  
11 14 division to pay for costs incurred by the division for  
11 15 collecting and properly disposing of liquor containers.

11 16 The bill makes conforming amendments to the penalty  
11 17 provisions of Code chapter 455C.

11 18 The bill takes effect January 1, 2002.

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