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SENATE FILE

329

BY BOLKCOM, CONNOLLY, HAMMOND, HOLVECK,
and DVORSKY

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to beverage container control laws.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 329
NAT. RES. & ENVIRONMENT

1 Section 1. Section 455C.1, subsections 1, 2, 9, and 13,
2 Code 2001, are amended to read as follows:

3 1. "Beverage" means wine as defined in section 123.3,
4 subsection 37, alcoholic liquor as defined in section 123.3,
5 subsection 5, beer as defined in section 123.3, subsection 7,
6 mineral-water, soda-water-and-similar-carbonated-soft-drinks
7 and any nonalcoholic carbonated and noncarbonated drinks,
8 excluding milk and dairy-derived products, in liquid form and
9 intended for human consumption. "Beverage" shall not include
10 any of the following:

11 a. A liquid which is any of the following:

12 (1) A syrup.

13 (2) In a concentrated form.

14 (3) Typically added as a minor flavoring ingredient in
15 food or drink, such as extracts, cooking additives, sauces, or
16 condiments.

17 b. A liquid which is ingested in very small quantities and
18 which is consumed for medicinal purposes only.

19 c. A liquid which is designed and consumed only as a
20 nutritional supplement and not as a beverage.

21 d. Products frozen at the time of sale to the consumer,
22 or, in the case of institutional users such as hospitals and
23 nursing homes, at the time of sale to such users.

24 e. Products designed to be consumed in a frozen state.

25 f. Instant drink powders.

26 g. Seafood, meat, or vegetable broths or soups which are
27 not juices.

28 h. Farm-produced apple cider, which has not been heated,
29 pasteurized, or otherwise processed.

30 2. "Beverage container" means any sealed-glass, plastic,
31 or-metal bottle, can, jar, or carton other container made of
32 glass, metal, or plastic containing a beverage which has been
33 sealed by a manufacturer.

34 9. "Distributor" means any person who engages in the sale
35 or distribution of beverages in beverage containers to a

1 dealer in this state, including any manufacturer who engages
2 in such sales. "Distributor" also means any dealer that
3 manufactures or contracts for the manufacture of a beverage
4 for exclusive sale by that dealer.

5 13. "Redemption center" means a-facility both approved and
6 unapproved facilities at which consumers may return empty
7 beverage containers and receive payment for the refund value
8 of the empty beverage containers.

9 Sec. 2. Section 455C.1, Code 2001, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 11A. "Milk and dairy-derived products"
12 means whole milk, skim milk, low-fat milk, cream, or any
13 combination thereof. "Milk and dairy-derived products" also
14 means products of which the single largest ingredient is whole
15 milk, milk fat, or milk with varying percentages of milk fat.

16 Sec. 3. Section 455C.2, subsection 2, Code 2001, is
17 amended to read as follows:

18 2. In addition to the refund value provided in subsection
19 1 of this section, a dealer, or person operating a redemption
20 center who redeems empty beverage containers or a dealer agent
21 shall be reimbursed by the distributor required to accept the
22 empty beverage containers an amount which is one-cent two
23 cents per container. The department shall establish a
24 schedule of future increases of the reimbursement amount. A
25 dealer, dealer agent, or person operating a redemption center
26 may compact empty metal beverage containers with the approval
27 of the distributor required to accept the containers.

28 Sec. 4. Section 455C.3, subsection 2, Code 2001, is
29 amended to read as follows:

30 2. A distributor shall accept and pick up from a dealer
31 served by the distributor or a redemption center for-a-dealer
32 within the geographic territory served by the distributor at
33 least-weekly, or when the distributor delivers the beverage
34 product-if-deliveries-are-less-frequent-than-weekly, any empty
35 beverage container of the kind, size, and brand sold by the

1 distributor~~7~~-and. A distributor shall accept and pick up
2 beverage containers from a dealer or redemption center within
3 seven days of the previous pickup from the same dealer or
4 redemption center. A distributor shall pay to the dealer or
5 person operating a redemption center the refund value of a
6 beverage container and the reimbursement as provided under
7 section 455C.2 within one week following pickup of the
8 containers or when the dealer or redemption center normally
9 pays the distributor for the deposit on beverage products
10 purchased from the distributor if less frequent than weekly.
11 A distributor or employee or agent of a distributor is not in
12 violation of this subsection if a redemption center is closed
13 when the distributor attempts to make a regular delivery or a
14 regular pickup of empty beverage containers. This subsection
15 does not apply to a distributor selling alcoholic liquor to
16 the alcoholic beverages division of the department of
17 commerce.

18 Sec. 5. Section 455C.3, Code 2001, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 6. Beginning with the calendar quarter
21 starting on July 1, 2001, a distributor who receives a refund
22 value for beverage containers sold to a dealer shall segregate
23 the moneys received in a fund, known as a deposit transaction
24 fund, which shall be maintained separately from all other
25 accounts and revenues of the distributor. A distributor shall
26 report on a quarterly basis to the department in the manner
27 prescribed by the department under section 455C.18. Moneys in
28 the deposit transaction fund shall be used to pay the refund
29 value to a dealer or person operating a redemption center and
30 shall not be used to pay the reimbursement amount required by
31 section 455C.2, subsection 2. A deposit transaction fund
32 shall be maintained by a distributor on behalf of consumers
33 who have purchased a beverage covered by this chapter and on
34 behalf of the state. At the end of each calendar quarter, any
35 moneys in the fund which constitute income earned on the fund

1 may be removed from the fund and retained by the distributor.

2 Sec. 6. NEW SECTION. 455C.3A ROBERT D. RAY BEAUTIFUL
3 LAND FUND.

4 1. The Robert D. Ray beautiful land fund is established in
5 the office of the treasurer of state under the control of the
6 department. The fund shall consist of any moneys appropriated
7 by the general assembly for that purpose and any other moneys
8 available to and obtained or accepted by the department for
9 placement in the fund. The fund shall also consist of moneys
10 received from distributors for deposit pursuant to section
11 455C.19.

12 2. Moneys in the fund are appropriated annually as
13 follows:

14 a. Two hundred fifty thousand dollars to the state
15 department of transportation to be used for purposes of the
16 adopt-a-highway program administered by the department.

17 b. Three hundred fifty thousand dollars to the state board
18 of regents for the Iowa waste reduction center for the safe
19 and economic management of solid waste and hazardous
20 substances established in section 268.4 for purposes of the
21 Iowa waste exchange.

22 c. The remaining moneys to the department of natural
23 resources to be used as follows:

24 (1) One-third of the remaining moneys shall be used to
25 provide financial assistance to cities, counties, or private
26 organizations for purposes of assisting adopt-a-place programs
27 designed to address litter collection and prevention.

28 (2) One-sixth of the remaining moneys shall be used to
29 provide grants to dealers, dealer agents, and persons
30 operating a redemption center for purposes of increasing the
31 effectiveness, efficiency, and convenience of redemption.

32 (3) One-sixth of the remaining moneys shall be used to
33 provide grants to cities, counties, or private organizations
34 for purposes of awareness, informational, or educational
35 programs designed to address litter and illegal dumping

1 issues.

2 (4) One-sixth of the remaining moneys shall be used to
3 provide grants to cities, counties, or private organizations
4 for purposes of awareness, informational, or educational
5 programs designed to address waste reduction, waste reuse, and
6 recycling issues.

7 (5) One-sixth of the remaining moneys shall be used to
8 provide no-interest loans to cities, counties, or public or
9 private organizations for purposes of developing end uses and
10 markets for recyclables in the state.

11 3. Notwithstanding section 8.33, all moneys in the Robert
12 D. Ray beautiful land fund which remain unexpended or
13 unobligated at the end of each fiscal year shall not revert
14 but shall remain available for expenditure in subsequent
15 fiscal years.

16 Sec. 7. Section 455C.4, subsection 3, Code 2001, is
17 amended by striking the subsection.

18 Sec. 8. Section 455C.5, subsections 2 and 3, Code 2001,
19 are amended to read as follows:

20 ~~2. A person, except a distributor, shall not import into~~
21 ~~this state after July 1, 1979, a beverage container which does~~
22 ~~not have securely affixed to the container the refund value~~
23 ~~indication. The provisions of this subsection do not apply~~
24 ~~if:~~

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

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

34 ~~c. For all other beverage containers, the total capacity~~
35 ~~of the containers is not more than five hundred seventy-six~~

1 ~~fluid-ounces.~~

2 3. ~~2.~~ ~~The provisions of subsections 1 and 2 of this~~ This
3 section ~~do~~ does not apply to a refillable glass beverage
4 container which has a brand name permanently marked on it and
5 which has a refund value of not less than five cents, to any
6 other refillable beverage container which has a refund value
7 of not less than five cents and which is exempted by the
8 director under rules adopted by the commission, or to a
9 beverage container sold aboard a commercial airliner or
10 passenger train for consumption on the premises.

11 Sec. 9. Section 455C.12, subsection 1, Code 2001, is
12 amended to read as follows:

13 1. Any person violating the provisions of section 455C.2,
14 455C.3, 455C.5, and 455C.8, or 455C.16, or a rule adopted
15 under this chapter shall be guilty of a simple misdemeanor.

16 Sec. 10. Section 455C.16, Code 2001, is amended to read as
17 follows:

18 455C.16 BEVERAGE CONTAINERS -- DISPOSAL AT SANITARY
19 LANDFILL PROHIBITED.

20 ~~Beginning July 17, 1990, the~~ The final disposal of beverage
21 containers by a dealer, distributor, or manufacturer, or
22 person operating a redemption center, in a sanitary landfill,
23 is prohibited. ~~Beginning September 17, 1992, the final~~
24 ~~disposal of beverage containers used to contain alcoholic~~
25 ~~liquor as defined in section 123.37, subsection 5, by a dealer,~~
26 ~~distributor, or manufacturer, or person operating a redemption~~
27 ~~center in a sanitary landfill, is prohibited.~~

28 Sec. 11. NEW SECTION. 455C.17 RECYCLED CONTENT IN
29 BEVERAGE CONTAINERS.

30 A beverage container sold or offered for sale in this state
31 shall have a minimum postconsumer recycled content of twenty-
32 five percent by weight.

33 Sec. 12. NEW SECTION. 455C.18 REPORTS.

34 Every distributor shall report to the department by the
35 third day of the month following the completion of the

1 calendar quarter, concerning transactions affecting its
2 deposit transaction fund in the preceding calendar quarter.
3 The report shall be in a form prescribed by the department and
4 shall include the number of beverage containers sold during
5 the previous calendar quarter, the amount of refund value paid
6 by the distributor to a dealer or person operating a
7 redemption center during the previous calendar quarter, any
8 income earned on the account during the previous calendar
9 quarter, the balance of the fund at the end of the previous
10 calendar quarter, and any additional information required by
11 the department.

12 Sec. 13. NEW SECTION. 455C.19 ABANDONED DEPOSIT AMOUNTS.

13 1. At the end of each calendar quarter, any balance in a
14 distributor's deposit transaction fund which is in excess of
15 income earned on the fund in the previous calendar quarter
16 shall be deemed to be abandoned refund value.

17 2. By the third day of the month following the completion
18 of a calendar quarter, each distributor shall transfer to the
19 department any moneys in the deposit transaction fund which
20 are determined to be abandoned refund value.

21 3. Any moneys received by the department pursuant to this
22 section shall be deposited by the department in the Robert D.
23 Ray beautiful land fund created in section 455C.3A.

24 EXPLANATION

25 This bill expands the list of beverage containers which are
26 covered under the beverage container control laws in Code
27 chapter 455C to include any nonalcoholic carbonated and
28 noncarbonated drinks which are not milk and dairy-derived
29 products. The bill excludes from the expanded list any liquid
30 which is a syrup, in a concentrated form, or is typically
31 added as a minor flavoring ingredient in food or drink; any
32 liquid which is ingested in very small quantities and which is
33 consumed for medicinal purposes only; any liquid which is
34 designed and consumed only as a nutritional supplement and not
35 as a beverage; products frozen at the time of sale to the

1 consumer, or, in the case of institutional users such as
2 hospitals and nursing homes, at the time of sale to such
3 users; products designed to be consumed in a frozen state;
4 instant drink powders; seafood, meat, or vegetable broths or
5 soups but which are not juices; and farm-produced apple cider,
6 which has not been heated, pasteurized, or otherwise
7 processed.

8 The bill amends the definition of "distributor" to include
9 any dealer that manufactures or contracts for the manufacture
10 of its own beverage for exclusive sale by that dealer.

11 The bill increases the reimbursement amount received by a
12 dealer or person operating a redemption center who redeems
13 empty beverage containers from 1 cent per container to 2 cents
14 per container. The bill provides that the department shall
15 establish a schedule for future increases of the reimbursement
16 amount. The reimbursement amount is paid by the distributor
17 who collects the beverage containers from the dealer or person
18 operating a redemption center.

19 The bill provides that a distributor shall accept and pick
20 up from a dealer served by the distributor or a redemption
21 center within the geographic territory served by the
22 distributor any empty beverage container of the kind, size,
23 and brand sold by the distributor within seven days of the
24 previous pickup from the same dealer or redemption center.

25 The bill creates a Robert D. Ray beautiful land fund. The
26 bill sets out the amounts and purposes for which moneys in the
27 fund are appropriated annually. The bill provides that
28 \$250,000 of the fund is appropriated to the state department
29 of transportation for purposes of the adopt-a-highway program,
30 and \$350,000 is appropriated to the state board of regents for
31 the Iowa waste reduction center. The bill provides that the
32 remaining moneys are appropriated to the department of natural
33 resources to be used as follows:

34 1. One-third to provide financial assistance for purposes
35 of assisting adopt-a-place programs designed to address litter

1 collection and prevention.

2 2. One-sixth to provide grants to dealers, dealer agents,
3 and persons operating a redemption center for purposes of
4 increasing the effectiveness, efficiency, and convenience of
5 redemption.

6 3. One-sixth to provide grants for purposes of awareness,
7 informational, or educational programs designed to address
8 litter and illegal dumping issues.

9 4. One-sixth to provide grants for purposes of awareness,
10 informational, or educational programs designed to address
11 waste reduction, waste reuse, and recycling issues.

12 5. One-sixth to provide no-interest loans for purposes of
13 developing end uses and markets for recyclables in the state.

14 The bill provides that, beginning with the calendar quarter
15 starting on July 1, 2001, a distributor who receives a refund
16 value for beverage containers sold to a dealer shall segregate
17 the moneys received in a fund, known as a deposit transaction
18 fund, which shall be maintained separately from all other
19 accounts and revenues of the distributor. The bill provides
20 that moneys in the deposit transaction fund shall not be used
21 to pay the reimbursement amount to dealers and operators of a
22 redemption center. The bill provides that a deposit
23 transaction fund shall be maintained by a distributor on
24 behalf of consumers, who have purchased beverages covered by
25 this chapter, and on behalf of the state. The bill provides
26 that, at the end of each calendar quarter, any moneys in the
27 fund which constitute income earned on the fund may be removed
28 from the fund and retained by the distributor.

29 The bill eliminates certain exceptions to requirements
30 related to labeling. The bill eliminates a prohibition
31 against disposing of empty alcoholic liquor containers in a
32 sanitary landfill.

33 The bill provides that a beverage container sold or offered
34 for sale in this state shall have a minimum postconsumer
35 recycled content of 25 percent by weight.

1 The bill provides that every distributor shall report to
2 the department by the third day of the month following the
3 completion of the calendar quarter, concerning transactions
4 affecting its deposit transaction fund in the preceding
5 calendar quarter, including the number of beverage containers
6 sold during the previous calendar quarter, the amount of
7 refund value paid by the distributor to a dealer or person
8 operating a redemption center during the previous calendar
9 quarter, any income earned on the account during the previous
10 calendar quarter, the balance of the fund at the end of the
11 previous calendar quarter, and any additional information
12 required by the department.

13 The bill provides that, at the end of each calendar
14 quarter, any balance in a distributor's deposit transaction
15 fund which is in excess of income earned on the fund in the
16 previous calendar quarter shall be deemed to be abandoned
17 refund value, shall be transferred to the department, and
18 shall be deposited by the department in the Robert D. Ray
19 beautiful land fund.

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