

House Study Bill 163 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL BY CHAIRPERSON
PAUSTIAN)

A BILL FOR

1 An Act repealing the beverage containers control program,
2 creating a recycling program and a litter control and
3 community enhancement initiative, imposing certain recycling
4 program fees and litter control and community enhancement
5 excise taxes, modifying references to the waste volume
6 reduction and recycling fund, and including effective date
7 provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 455C.1 Definitions.

2 1. "*Beverage*" means wine as defined in section 123.3,
3 subsection 47, alcoholic liquor as defined in section 123.3,
4 subsection 5, beer as defined in section 123.3, subsection 7,
5 mineral water, soda water, and similar carbonated soft drinks
6 in liquid form and intended for human consumption.

7 2. "*Beverage container*" means a sealed glass, plastic,
8 cardboard, or metal bottle, can, jar, or carton containing a
9 beverage.

10 3. "*Commission*" means the environmental protection
11 commission.

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

14 5. "*Core recyclables*" includes aluminum or steel cans,
15 plastic bottles designated with society of plastics industry
16 resin codes one through seven as determined by ASTM (American
17 society for testing and materials) international, glass
18 bottles and jars, newspapers, magazines, junk mail, corrugated
19 cardboard, boxboard, mixed paper, beverage cartons, and
20 additional materials designated periodically by the department.

21 6. "*Dealer*" means a person who engages in the sale of
22 beverages in beverage containers to a consumer.

23 7. "*Department*" means the department of natural resources
24 created in section 455A.2.

25 8. "*Director*" means the director of the department.

26 9. "*Distributor*" means a person who engages in the sale of
27 beverages in beverage containers to a dealer in this state,
28 including any manufacturer who engages in such sales.

29 10. "*Eligible applicant*" means a person who submits a
30 completed application to the department under this chapter.

31 11. "*Manufacturer*" means a person who fills beverage
32 containers with beverages for sale to distributors or dealers.

33 12. "*Recycling*" means the same as defined in section 455D.1.

34 Sec. 2. NEW SECTION. 455C.2 Findings and policy.

35 The general assembly reaffirms its findings and statements

1 of policies set forth in sections 455D.2 through 455D.4.

2 Sec. 3. NEW SECTION. **455C.3 Duties of the director.**

3 The director shall do all of the following:

4 1. Unless otherwise specified in this chapter, recommend
5 rules to the commission necessary to administer this chapter.

6 2. Administer the recycling program created by this
7 chapter.

8 3. Enter into contracts and agreements with local units of
9 government, other state agencies, governments of other states,
10 governmental agencies of the United States, other public and
11 private contractors, and other persons as may be necessary or
12 beneficial in carrying out the department's duties under this
13 chapter, with commission approval required for contracts or
14 agreements in excess of twenty-five thousand dollars.

15 4. Organize an application review team to review proposals
16 submitted to the department in accordance with this chapter.

17 Sec. 4. NEW SECTION. **455C.4 Rules.**

18 The commission shall adopt rules pursuant to chapter 17A
19 necessary to administer this chapter.

20 Sec. 5. NEW SECTION. **455C.5 Recycling program planning.**

21 1. An eligible applicant may submit a recycling program
22 proposal to the department on or before January 1, 2018.

23 a. The department may provide proposal guidance and funding
24 assistance to an eligible applicant.

25 b. The department may encourage and reward regionalized
26 efforts through its recycling program proposal funding
27 assistance decisions.

28 2. A proposal submitted by an eligible applicant must
29 include all of the following:

30 a. An inventory of the eligible applicant's existing
31 recycling programs and infrastructure.

32 b. New investment and personnel required to comply with
33 recycling program requirements.

34 c. Planned recycling education and outreach initiatives.

35 d. Projected landfill diversion results from the expenditure

1 of the requested funding assistance.

2 e. Projected greenhouse gas emissions avoided or reduced.

3 f. Projected economic benefits to cities and counties.

4 g. A business plan to ensure successful operation after
5 funding assistance ends.

6 h. Planned initiatives to encourage innovation regarding use
7 of recycling materials.

8 3. Proposals submitted by eligible applicants must
9 prioritize the recovery of high-value materials from the waste
10 stream and emphasize the highest and best use for recovered
11 materials given economic and logistic constraints.

12 4. The department shall review and may approve submitted
13 proposals according to criteria developed by the department.
14 The department shall return unsatisfactory proposals to
15 eligible applicants for revision and resubmission. Eligible
16 applicants whose proposals are not approved by the department
17 are not eligible for assistance from the recycling program.

18 5. Proposals must include a means of collecting core
19 recyclables based on best practices for improving accessibility
20 and convenience in the eligible applicant's region of the
21 state, and may include special handling for glass containers.
22 Eligible applicants are encouraged to pursue revenue-sharing
23 clauses in contracts for the sale of recyclables that allow for
24 incentives to maintain high-volume and high-value recycling
25 streams.

26 Sec. 6. NEW SECTION. 455C.6 Recycling program —
27 utilization.

28 The recycling program shall do the following:

29 1. Issue grants or no-interest, low-interest, or forgivable
30 loans to eligible applicants for the preparation of recycling
31 program proposals submitted under section 455C.5. Total
32 funding assistance for recycling program proposal grants and
33 loans for all years shall not exceed five million dollars.

34 2. Include review by the department of recycling proposals,
35 conducting baseline recycling research, and enforcing

1 provisions of this chapter, including enforcement of the
2 payment of the recycling program fee.

3 3. Issue grants or no-interest, low-interest, or
4 forgivable loans for capital investment needed for collection,
5 transportation, processing, or marketing of core recyclables
6 and other recyclables. Priorities for these grants and loans
7 include all of the following:

8 a. Start-up or transition costs for residential recycling
9 programs and for new initiatives to collect core recyclables
10 and other recyclables in conjunction with commercial recycling
11 programs.

12 b. Projects and proposals demonstrating cost-effective solid
13 waste diversion programs.

14 c. Costs for businesses dependent upon the beverage
15 containers control program prior to January 1, 2019, to
16 transition into recycling system entities including but not
17 limited to redemption centers, collectors, and transportation
18 providers.

19 Sec. 7. NEW SECTION. 455C.7 Recycling program fee.

20 1. As of January 1, 2019, the department shall impose a
21 recycling program fee of one cent per beverage container on
22 distributors as a temporary assessment that will remain in
23 place until recycling program fee revenues equal sixty million
24 dollars, at which point the recycling program fee shall no
25 longer be imposed.

26 2. Revenue generated from the recycling program fee shall
27 not be subject to appropriation and shall be deposited in the
28 solid waste account of the groundwater protection fund created
29 in section 455E.11, subsection 2, to be utilized as provided in
30 section 455E.11, subsection 2, paragraph "a", subparagraph (1),
31 subparagraph division (f).

32 3. The department shall examine other more diversified
33 funding mechanisms, including modifications to the litter
34 control and community enhancement fee imposed under section
35 455C.9, to provide ongoing support for recycling programs after

1 the recycling program fee is no longer imposed.

2 4. Expenditures for recycling program administration and
3 support may be paid using moneys received for deposit in the
4 solid waste account under this section but shall not exceed
5 five percent of the total moneys received for deposit each
6 fiscal year.

7 5. Fees imposed by this section shall be paid by
8 distributors to the department on a quarterly basis with
9 payment due by no more than ninety days following the quarter
10 during which the fees were collected. The payment shall be
11 accompanied by a return which shall identify the amount of fees
12 to be deposited in the solid waste account of the groundwater
13 protection fund.

14 Sec. 8. NEW SECTION. 455C.8 Litter control and community
15 enhancement initiatives.

16 The keep Iowa beautiful fund created in section 314.28 may be
17 utilized to financially support litter control and community
18 enhancement initiatives that do any of the following:

19 1. Conduct statewide surveys every ten years to allow
20 tracking of litter control and prevention progress.

21 2. Develop and utilize public relations campaigns primarily
22 focused on litter control and community enhancement.

23 3. Promote teachers-going-green-program lesson plans that
24 meet core federal and state education requirements.

25 4. Coordinate community service outreach grant programs
26 targeted at youth groups, elementary school fundraisers,
27 and religious and community improvement clubs, schools, or
28 specialized programs.

29 5. Approve the funding of submitted litter control
30 and community enhancement proposals according to criteria
31 determined by the administrator of the keep Iowa beautiful
32 fund. Inadequate or incomplete proposals shall be returned
33 to the eligible applicant for revision and resubmission.
34 Eligible applicants whose proposals are not approved by the
35 administrator of the keep Iowa beautiful fund shall not be

1 eligible for funding assistance from the keep Iowa beautiful
2 fund.

3 Sec. 9. NEW SECTION. **455C.9 Litter control and community**
4 **enhancement fee.**

5 1. A litter control and community enhancement fee is
6 imposed effective January 1, 2019, as an excise tax collected
7 by the department of revenue at a rate of fifteen-thousandths
8 of one percent upon the sales price of beverages in beverage
9 containers.

10 2. All revenue generated from the litter control and
11 community enhancement fee shall be deposited into a separate
12 account in the keep Iowa beautiful fund. Revenue generated
13 from the litter control and community enhancement fee shall not
14 be used for any purpose other than those referenced in section
15 455C.8 and shall not be subject to appropriation for any other
16 purpose.

17 3. Fees imposed by this section shall be paid to the
18 department on a quarterly basis with payment due by no more
19 than ninety days following the quarter during which the fees
20 were collected. The payment shall be accompanied by a return
21 which shall identify the amount of fees to be deposited in the
22 keep Iowa beautiful fund.

23 4. The director of revenue shall administer the litter
24 control and community enhancement fee as an excise tax on the
25 sale of beverages in beverage containers as nearly as possible
26 in conjunction with the administration of the state sales and
27 use tax law, except that portion of the law that implements the
28 streamlined sales and use tax agreement. The director shall
29 provide appropriate forms, or provide on the regular state tax
30 forms, for reporting the excise tax liability.

31 Sec. 10. Section 29C.8A, subsection 1, Code 2017, is amended
32 to read as follows:

33 1. An emergency response fund is created in the state
34 treasury. The first one hundred thousand dollars received
35 annually by the treasurer of state for the civil penalties

1 and fines imposed by the court pursuant to [sections 455B.146](#),
2 [455B.191](#), [455B.386](#), and [455B.477](#) shall be deposited in the
3 waste volume reduction ~~and recycling~~ fund created in section
4 [455D.15](#). The next hundred thousand dollars shall be deposited
5 in the emergency response fund and any additional moneys shall
6 be deposited in the household hazardous waste account. All
7 moneys received annually by the treasurer of the state for the
8 fines imposed by [sections 716B.2](#), [716B.3](#), and [716B.4](#) shall also
9 be deposited in the emergency response fund.

10 Sec. 11. Section [123.24](#), subsection 5, Code 2017, is amended
11 by striking the subsection.

12 Sec. 12. Section [123.26](#), Code 2017, is amended to read as
13 follows:

14 **[123.26](#) Restrictions on sales — seals — labeling.**

15 Alcoholic liquor shall not be sold by a class "E" liquor
16 control licensee except in a sealed container with identifying
17 markers as prescribed by the administrator and affixed in the
18 manner prescribed by the administrator, and no such container
19 shall be opened upon the premises of a state warehouse. The
20 division shall cooperate with the department of natural
21 resources so that only one identifying marker or mark is needed
22 to satisfy the requirements of [this section](#) ~~and section 455C.5,~~
23 ~~subsection 1.~~ Possession of alcoholic liquors which do not
24 carry the prescribed identifying markers is a violation of this
25 chapter except as provided in [section 123.22](#).

26 Sec. 13. Section [123.187](#), subsection 4, paragraph b, Code
27 2017, is amended by striking the paragraph.

28 Sec. 14. Section [423.6](#), subsection 3, paragraph a, Code
29 2017, is amended to read as follows:

30 *a.* Any tangible personal property including containers which
31 it is intended shall, by means of fabrication, compounding,
32 manufacturing, or germination, become an integral part of other
33 tangible personal property intended to be sold ultimately at
34 retail, ~~and containers used in the collection, recovery, or~~
35 ~~return of empty beverage containers subject to [chapter 455C](#).~~

1 Sec. 15. Section 455B.313, subsection 1, Code 2017, is
2 amended to read as follows:

3 1. A distributor as defined in section 455C.1, ~~subsection~~
4 ~~9~~, shall not sell or offer to sell any beverage container
5 if the beverage container is connected to another beverage
6 container by a device constructed of a material which is not
7 biodegradable or photodegradable.

8 Sec. 16. Section 455D.6, subsection 2, Code 2017, is amended
9 to read as follows:

10 2. Administer and coordinate the waste volume reduction and
11 recycling fund created under [section 455D.15](#).

12 Sec. 17. Section 455D.15, subsection 1, Code 2017, is
13 amended to read as follows:

14 1. A waste volume reduction and ~~recycling~~ fund is created
15 within the state treasury. Moneys received by the department
16 from fees, including general revenue, federal funds, awards,
17 wills, bequests, gifts, or other moneys designated shall be
18 deposited in the state treasury to the credit of the fund.
19 Notwithstanding [section 8.33](#), any unexpended balance in the
20 fund at the end of each fiscal year shall be retained in the
21 fund. Any interest and earnings on investments from money
22 in the fund shall be credited to the fund, [section 12C.7](#)
23 notwithstanding.

24 Sec. 18. Section 455D.15A, Code 2017, is amended to read as
25 follows:

26 **455D.15A Permitting of waste conversion technologies**
27 **operations — fees.**

28 A facility using waste conversion technologies, as defined
29 in [section 455B.301](#), shall annually obtain a permit from the
30 department. The department shall establish by rule an annual
31 fee for such permits, which shall be sufficient to cover
32 the costs of administering the permit program. The moneys
33 collected by the department shall be deposited in the waste
34 volume reduction and ~~recycling~~ fund established in section
35 455D.15 and shall be used for the purposes of administering the

1 permit program.

2 Sec. 19. Section 455E.11, subsection 2, paragraph a,
3 subparagraph (1), subparagraph division (f), Code 2017, is
4 amended to read as follows:

5 (f) The balance of the remaining funds shall be used by the
6 department to ~~develop~~ do the following:

7 (i) Develop and implement demonstration projects for
8 landfill alternatives to solid waste disposal including
9 recycling programs. ~~These funds may also be used to assist~~

10 (ii) Assist planning areas which have not been designated
11 as environmental management systems in meeting the designation
12 requirements of [section 455J.3](#).

13 (iii) Provide financial assistance for recycling programs
14 described in section 455C.6 using revenue from fees imposed
15 under section 455C.7.

16 Sec. 20. REPEAL. Chapter 455C, Code 2017, is repealed.

17 Sec. 21. REPEAL. Section 455D.21, Code 2017, is repealed.

18 Sec. 22. TRANSITION AND IMPLEMENTATION. The department
19 of natural resources and the administrator of the keep Iowa
20 beautiful board may begin preparations to implement this Act,
21 including adoption of administrative rules, prior to January 1,
22 2018, to the extent necessary to transition from the beverage
23 containers control law to full implementation of the provisions
24 relating to the recycling program and litter control and
25 community enhancement initiatives.

26 Sec. 23. EFFECTIVE DATE. This Act takes effect January 1,
27 2018, except as otherwise provided in this Act.

28 Sec. 24. EFFECTIVE DATE — TRANSITION AND
29 IMPLEMENTATION. The section of this Act providing for
30 transition and implementation takes effect July 1, 2017.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill repeals current Code chapter 455C, the beverage
35 containers control law, and replaces it with new statewide

1 recycling, litter control, and community enhancement programs.

2 The bill requires an eligible applicant to submit a
3 recycling program proposal to the department of natural
4 resources on or before January 1, 2018, outlining its proposals
5 regarding recycling, litter control, and community enhancement
6 programs set forth in new Code sections 455C.5 and 455C.8.
7 Eligible applicants without approved proposals will not be
8 eligible for funding assistance from the new programs created
9 in the new Code chapter.

10 The bill deposits moneys into the solid waste account of the
11 groundwater protection fund created in Code section 455E.11(2)
12 for use by the recycling program collected through a recycling
13 program fee imposed by the department of natural resources.
14 The recycling program fee is a temporary assessment that will
15 remain in place until \$60 million is raised, at which point the
16 recycling program fee is no longer imposed.

17 The bill requires eligible applicants to submit
18 litter control and community enhancement proposals to the
19 administrator of the keep Iowa beautiful fund. The keep Iowa
20 beautiful fund receives moneys from a new litter control and
21 community enhancement fee collected by the department of
22 revenue at a rate of fifteen-thousandths of 1 percent of the
23 sales price of beverages in beverage containers.

24 The bill authorizes the environmental protection commission
25 to adopt rules pursuant to Code chapter 17A necessary to
26 administer the new Code chapter 455C provisions.

27 The bill modifies the title of the waste volume reduction
28 and recycling fund created in Code section 455D.15 and updates
29 references to that fund throughout the Code.

30 The bill removes a statutory requirement that city councils
31 or county boards of supervisors that provide for residential
32 solid waste collection consider mandatory curbside collection
33 of recyclable materials as a proposed ordinance.

34 The bill takes effect January 1, 2018, except that the
35 department of natural resources and the administrator of the

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1 keep Iowa beautiful fund may begin implementation on July 1,
2 2017, to the extent necessary to transition from the beverage
3 containers control law to full implementation of the provisions
4 relating to the recycling program and litter control and
5 community enhancement initiative.