

House File 2534 - Introduced

HOUSE FILE 2534
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 507)

A BILL FOR

1 An Act relating to the applicability of beverage container
2 control provisions, handling fees, and acceptance of
3 beverage containers, making penalties applicable, and
4 providing effective date provisions.

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

1 Section 1. Section 455C.1, subsection 1, Code 2020, is
2 amended to read as follows:

3 1. "*Beverage*" means wine as defined in section 123.3,
4 subsection 54, alcoholic liquor as defined in section 123.3,
5 subsection 5, beer as defined in section 123.3, subsection
6 7, high alcoholic content beer as defined in section 123.3,
7 subsection 22, canned cocktail as defined in section 123.3,
8 subsection 11, mineral water, soda water, and similar
9 carbonated soft drinks in liquid form and intended for human
10 consumption.

11 Sec. 2. Section 455C.1, subsection 6, Code 2020, is amended
12 to read as follows:

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

17 Sec. 3. Section 455C.1, Code 2020, is amended by adding the
18 following new subsection:

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

22 Sec. 4. Section 455C.2, Code 2020, is amended to read as
23 follows:

24 **455C.2 Refund values.**

25 1. A refund value of not less than five cents shall be paid
26 by the consumer on each beverage container sold in this state
27 by a dealer for consumption off the premises. Upon return of
28 the empty beverage container upon which a refund value has
29 been paid to the participating dealer or person operating
30 a redemption center and acceptance of the empty beverage
31 container by the participating dealer or person operating a
32 redemption center, the participating dealer or person operating
33 a redemption center shall immediately return the amount of
34 the refund value to the consumer. Upon return of the empty
35 beverage container on which a refund value has been paid to a

1 dealer agent, the dealer agent shall return the amount of the
2 refund value to the consumer within a reasonable time.

3 2. Upon delivery of beverages from a distributor to a
4 dealer, the dealer shall pay a one-cent handling fee per
5 container to the distributor. In addition to the refund value
6 provided in [subsection 1 of this section](#), a participating
7 dealer, dealer agent, or person operating a redemption center
8 who redeems empty beverage containers ~~or a dealer agent~~ shall
9 be reimbursed by the distributor required to accept the empty
10 beverage containers ~~an amount which~~ a handling fee that is ~~one~~
11 ~~cent~~ two cents per container. A participating dealer, dealer
12 agent, or person operating a redemption center may compact
13 empty metal beverage containers with the approval of the
14 distributor required to accept the containers.

15 Sec. 5. Section 455C.3, subsections 1, 2, and 4, Code 2020,
16 are amended to read as follows:

17 1. A participating dealer shall not refuse to accept from
18 a consumer any empty beverage container of the kind, size and
19 brand sold by the participating dealer, or refuse to pay to the
20 consumer the refund value of a beverage container as provided
21 under [section 455C.2](#).

22 2. A distributor shall accept and pick up from a
23 participating dealer served by the distributor or a redemption
24 center for a dealer served by the distributor at least weekly,
25 or when the distributor delivers the beverage product if
26 deliveries are less frequent than weekly, any empty beverage
27 container of the kind, size, and brand sold by the distributor,
28 and shall pay to the participating dealer or person operating
29 a redemption center the refund value of a beverage container
30 and the reimbursement as provided under [section 455C.2](#) within
31 one week following pickup of the containers or when the
32 participating dealer or redemption center normally pays the
33 distributor for the deposit on beverage products purchased from
34 the distributor if less frequent than weekly. A distributor
35 or employee or agent of a distributor is not in violation

1 of [this subsection](#) if a redemption center is closed when the
2 distributor attempts to make a regular delivery or a regular
3 pickup of empty beverage containers. [This subsection](#) does
4 not apply to a distributor selling alcoholic liquor to the
5 alcoholic beverages division of the department of commerce.

6 4. A distributor shall accept from a dealer agent any empty
7 beverage container of the kind, size, and brand sold by the
8 distributor and ~~which~~ that was picked up by the dealer agent
9 from a participating dealer within the geographic territory
10 served by the distributor and the distributor shall pay the
11 dealer agent the refund value of the empty beverage container
12 and the reimbursement as provided in [section 455C.2](#).

13 Sec. 6. Section 455C.4, Code 2020, is amended to read as
14 follows:

15 **455C.4 Refusal to accept containers.**

16 1. Except as provided in [section 455C.5, subsection 3](#), a
17 participating dealer, a person operating a redemption center, a
18 distributor, or a manufacturer may refuse to accept any empty
19 beverage container ~~which~~ that does not have stated on it a
20 refund value as provided under [section 455C.2](#).

21 2. A dealer may refuse to accept and to pay the refund value
22 of any empty beverage container ~~if the place of business of the~~
23 ~~dealer and the kind and brand of empty beverage containers are~~
24 ~~included in an order of the department approving a redemption~~
25 ~~center under [section 455C.6](#) after providing notice to the~~
26 department and if the place of business of the dealer is
27 located within a ten-mile radius of a redemption center or
28 dealer agent.

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

1 ~~4.~~ 3. A class "E" liquor control licensee may refuse to
2 accept and to pay the refund value on an empty alcoholic liquor
3 container from a participating dealer or a redemption center
4 or from a person acting on behalf of or who has received empty
5 alcoholic liquor containers from a participating dealer or a
6 redemption center.

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

12 Sec. 7. Section 455C.5, subsection 1, Code 2020, is amended
13 to read as follows:

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

23 Sec. 8. Section 455C.6, subsections 1, 2, and 5, Code 2020,
24 are amended to read as follows:

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

31 2. ~~An application for approval of a~~ A person operating a
32 redemption center shall file written notice of the operation
33 of the redemption center shall be filed with the department.
34 ~~The application notice shall state the name and address of the~~
35 person responsible for the establishment and operation of the

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

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

8 Sec. 9. Section 455C.6, subsections 3 and 4, Code 2020, are
9 amended by striking the subsections.

10 Sec. 10. Section 455C.12, subsections 2 and 3, Code 2020,
11 are 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, or consumer is guilty
16 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, or consumer.

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

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

31 Sec. 11. Section 455C.12, Code 2020, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 6. A person who violates any provision
34 of this chapter shall be subject to a civil penalty of two
35 thousand five hundred dollars per violation, which shall

1 be assessed and collected in the same manner as provided
2 in section 455B.109. Any civil penalty collected shall be
3 deposited in the general fund of the state.

4 Sec. 12. NEW SECTION. **455C.12A Administrative enforcement**
5 **— compliance orders.**

6 The director may issue any order necessary to secure
7 compliance with or prevent a violation of the provisions of
8 this chapter or any rule adopted or permit or order issued
9 pursuant to this chapter. The person to whom such compliance
10 order is issued may cause to be commenced a contested case
11 within the meaning of chapter 17A by filing within thirty
12 days a notice of appeal to the commission. On appeal, the
13 commission may affirm, modify, or vacate the order of the
14 director.

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

16 Judicial review of any order or other action of the
17 commission or director may be sought in accordance with the
18 terms of chapter 17A. Notwithstanding the terms of chapter
19 17A, petitions for judicial review may be filed in the district
20 court of the county in which the alleged offense was committed.

21 Sec. 14. NEW SECTION. **455C.12C Civil actions for compliance**
22 **— penalties.**

23 1. The attorney general, on request of the department, shall
24 institute any legal proceedings necessary to obtain compliance
25 with an order of the commission or the director, including
26 proceedings for a temporary injunction, or prosecuting any
27 person for a violation of an order of the commission or the
28 director, the provisions of this chapter, or any rules adopted
29 or permit or order issued pursuant to this chapter.

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

33 Sec. 15. Section 455C.13, Code 2020, is amended to read as
34 follows:

35 **455C.13 Distributors' agreements authorized.**

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

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

10 Sec. 16. Section 455C.14, subsection 1, Code 2020, is
11 amended to read as follows:

12 1. If the refund value indication required under section
13 455C.5 on an empty nonrefillable metal beverage container
14 is readable but the redemption of the container is lawfully
15 refused by a participating dealer or person operating a
16 redemption center under other sections of this chapter or rules
17 adopted pursuant to these sections, the container shall be
18 accepted and the refund value paid to a consumer as provided
19 in this section. Each beer distributor selling nonrefillable
20 metal beverage containers in this state shall provide
21 individually or collectively by contract or agreement with a
22 dealer, person operating a redemption center or another person,
23 at least one facility in the county seat of each county where
24 refused empty nonrefillable metal beverage containers having a
25 readable refund value indication as required by this chapter
26 are accepted and redeemed. In cities having a population of
27 twenty-five thousand or more, the number of the facilities
28 provided shall be one for each twenty-five thousand population
29 or a fractional part of that population.

30 Sec. 17. REPEAL. Sections 455C.7 and 455C.10, Code 2020,
31 are repealed.

32 Sec. 18. EFFECTIVE DATE. This Act takes effect July 1,
33 2021.

34

EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to the beverage containers control law,
3 also known as the bottle bill.

4 Current law limits beverage containers subject to beverage
5 containers control deposit and refund provisions to any sealed
6 glass, plastic, or metal bottle, can, jar, or carton holding
7 wine, alcoholic liquor, beer, mineral water, soda water, and
8 carbonated soft drinks. When a distributor sells beverages
9 in eligible containers to a dealer, the distributor charges 5
10 cents per eligible container to the sale price. When a dealer
11 sells beverages in eligible containers to a consumer, the
12 dealer charges the 5-cent deposit on each beverage container.
13 A consumer can take eligible beverage containers to a dealer,
14 dealer agent, or a redemption center and receive a 5-cent
15 refund for every eligible beverage container that the consumer
16 returns. A distributor collects eligible containers from a
17 dealer, dealer agent, or redemption center, at which time
18 the distributor pays the dealer, dealer agent, or redemption
19 center 5 cents per eligible container plus a handling fee of an
20 additional 1 cent per empty container.

21 The bill adds high alcoholic content beer and canned
22 cocktails to the definition of "beverage". The bill creates
23 a definition for "participating dealer". The bill requires
24 any dealer to pay a 1-cent handling fee to a distributor upon
25 delivery of beverages and increases the handling fee that a
26 participating dealer, dealer agent, or redemption center will
27 charge a distributor from 1 cent to 2 cents. The bill requires
28 a participating dealer to accept and pay the refund value of
29 any beverage container, except as currently provided by law.
30 The bill requires a participating dealer or a redemption center
31 to immediately return the refund value to a consumer upon the
32 return and acceptance of a beverage container for which the
33 refund value has been paid. However, a dealer agent shall
34 return the refund value to a consumer within a reasonable
35 time for the return of a beverage container for which the

1 refund value has been paid. A dealer can choose to not be
2 a participating dealer by providing notice to the department
3 of natural resources and only if the place of business of
4 the dealer is within a 10-mile radius of a redemption center
5 or dealer agent. The bill requires the registration of the
6 universal product code for each beverage container in a format
7 provided by the department. The bill requires a redemption
8 center to file a notice with the department but does not
9 require the department to grant approval for any redemption
10 centers. The bill removes provisions of Code chapter 455C that
11 relate to the department's authority to approve redemption
12 centers. The bill also allows a dealer or person operating a
13 redemption center to enter into contracts or agreements for the
14 collection or disposal of beverage containers.

15 The bill authorizes the department to establish a civil
16 penalty of \$2,500 for a violation of any provision of Code
17 chapter 455C. The bill allows the department to issue
18 compliance orders, subject to judicial review, that may be
19 enforced by the attorney general's office. A violation of a
20 compliance order is subject to a fine of not more than \$10,000
21 per day per violation.

22 The bill takes effect July 1, 2021.