

Senate File 520 - Introduced

SENATE FILE 520
BY COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SF 59)

A BILL FOR

1 An Act relating to the redemption and handling of beverage
2 containers, providing civil penalties, and including
3 effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 455C.1, Code 2019, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer
4 who accepts the return of empty beverage containers from a
5 consumer.

6 Sec. 2. Section 455C.2, Code 2019, is amended to read as
7 follows:

8 **455C.2 Refund values.**

9 1. A refund value of not less than five cents shall be paid
10 by the consumer on each beverage container sold in this state
11 by a dealer for consumption off the premises. Upon return of
12 the empty beverage container upon which a refund value has
13 been paid to the participating dealer or ~~person operating~~
14 a redemption center and acceptance of the empty beverage
15 container by the participating dealer or ~~person operating a~~
16 redemption center, the participating dealer or ~~person operating~~
17 a redemption center shall return the amount of the refund value
18 to the consumer.

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

28 Sec. 3. Section 455C.3, subsections 1, 2, and 4, Code 2019,
29 are amended to read as follows:

30 1. A participating dealer shall not refuse to accept from a
31 consumer any empty beverage container of the kind, size, and
32 brand sold by the participating dealer, or refuse to pay to the
33 consumer the refund value of a beverage container as provided
34 under section 455C.2.

35 2. A distributor shall accept and pick up from a

1 participating dealer served by the distributor or a redemption
2 center for a dealer served by the distributor at least weekly,
3 or when the distributor delivers the beverage product if
4 deliveries are less frequent than weekly, any empty beverage
5 container of the kind, size, and brand sold by the distributor,
6 and shall pay to the participating dealer or ~~person operating~~
7 a redemption center the refund value of a beverage container
8 and the reimbursement as provided under [section 455C.2](#) within
9 one week following pickup of the containers or when the
10 participating dealer or redemption center normally pays the
11 distributor for the deposit on beverage products purchased from
12 the distributor if less frequent than weekly. A distributor
13 or employee or agent of a distributor is not in violation
14 of [this subsection](#) if a redemption center is closed when the
15 distributor attempts to make a regular delivery or a regular
16 pickup of empty beverage containers. [This subsection](#) does
17 not apply to a distributor selling alcoholic liquor to the
18 alcoholic beverages division of the department of commerce.

19 4. A distributor shall accept from a dealer agent any empty
20 beverage container of the kind, size, and brand sold by the
21 distributor and ~~which~~ that was picked up by the dealer agent
22 from a participating dealer within the geographic territory
23 served by the distributor and the distributor shall pay the
24 dealer agent the refund value of the empty beverage container
25 and the reimbursement as provided in [section 455C.2](#).

26 Sec. 4. Section 455C.4, Code 2019, is amended to read as
27 follows:

28 **455C.4 Refusal to accept containers.**

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

34 2. A dealer may refuse to accept and to pay the refund value
35 of any empty beverage container ~~if the place of business of the~~

~~1 dealer and the kind and brand of empty beverage containers are
2 included in an order of the department approving a redemption
3 center under section 455C.6 by providing notice to the
4 department.~~

~~5 3. A dealer or a distributor may refuse to accept and to pay
6 the refund value of an empty wine or alcoholic liquor container
7 which is marked to indicate that it was sold by a state liquor
8 store. The alcoholic beverages division shall not reimburse
9 a dealer or a distributor the refund value on an empty wine or
10 alcoholic liquor container which is marked to indicate that the
11 container was sold by a state liquor store.~~

12 4. 3. A class "E" liquor control licensee may refuse to
13 accept and to pay the refund value on an empty alcoholic liquor
14 container from a participating dealer or a redemption center
15 or from a person acting on behalf of or who has received empty
16 alcoholic liquor containers from a participating dealer or a
17 redemption center.

18 5. 4. A manufacturer or distributor may refuse to accept
19 and to pay the refund value and reimbursement as provided in
20 section 455C.2 on any empty beverage container that was picked
21 up by a dealer agent from a participating dealer outside the
22 geographic territory served by the manufacturer or distributor.

23 Sec. 5. Section 455C.5, subsection 1, Code 2019, is amended
24 to read as follows:

25 1. Each beverage container sold or offered for sale in
26 this state by a dealer shall clearly indicate by embossing or
27 by a stamp, label, or other method securely affixed to the
28 container, the refund value of the container. The department
29 shall specify, by rule, the minimum size of the refund value
30 indication on the beverage containers and require registration
31 of the universal product code for each beverage container in a
32 format required by the department.

33 Sec. 6. Section 455C.6, subsections 1, 2, and 5, Code 2019,
34 are amended to read as follows:

35 1. To facilitate the return of empty beverage containers

1 and to serve dealers of beverages, any person may establish a
2 redemption center, ~~subject to the approval of the department,~~
3 at which consumers may return empty beverage containers
4 and receive payment of the refund value of such beverage
5 containers.

6 2. ~~An application for approval of~~ Written notice of the
7 operation of a redemption center shall be filed with the
8 department. The ~~application~~ notice shall state the name and
9 address of the person responsible for the establishment and
10 operation of the redemption center, ~~the kind and brand names~~
11 ~~of the beverage containers which will be accepted at the~~
12 ~~redemption center,~~ and the names and addresses of the dealers
13 to be served by the redemption center. The ~~application~~ notice
14 shall contain such other information as the director may
15 reasonably require.

16 5. All ~~approved~~ redemption centers shall meet applicable
17 health standards.

18 Sec. 7. Section 455C.6, subsections 3 and 4, Code 2019, are
19 amended by striking the subsections.

20 Sec. 8. Section 455C.12, subsections 2 and 3, Code 2019, are
21 amended to read as follows:

22 2. A distributor who collects or attempts to collect
23 a refund value on an empty beverage container when the
24 distributor has paid the refund value on the container to a
25 participating dealer, redemption center, or consumer is guilty
26 of a fraudulent practice.

27 3. Any person who does any of the following acts is guilty
28 of a fraudulent practice:

29 a. Collects or attempts to collect the refund value on the
30 container a second time, with the knowledge that the refund
31 value has once been paid by the distributor to a participating
32 dealer, redemption center, or consumer.

33 b. Manufactures, sells, possesses or applies a false or
34 counterfeit label or indication which shows or purports to show
35 a refund value for a beverage container, with intent to use the

1 false or counterfeit label or indication.

2 *c.* Collects or attempts to collect a refund value on
3 a container with the use of a false or counterfeit label
4 or indication showing a refund value, knowing the label or
5 indication to be false or counterfeit.

6 Sec. 9. Section 455C.12, Code 2019, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 6. A person who violates any provision of
9 this chapter shall be subject to a civil penalty that shall
10 be established, assessed, and collected in the same manner
11 as provided in section 455B.109. Any civil penalty shall be
12 deposited in the general fund of the state.

13 Sec. 10. NEW SECTION. **455C.12A Administrative enforcement**
14 **— compliance orders.**

15 The director may issue any order necessary to secure
16 compliance with or prevent a violation of the provisions of
17 this chapter or any rule adopted or permit or order issued
18 pursuant to this chapter. The person to whom such compliance
19 order is issued may cause to be commenced a contested case
20 within the meaning of chapter 17A by filing within thirty
21 days a notice of appeal to the commission. On appeal, the
22 commission may affirm, modify, or vacate the order of the
23 director.

24 Sec. 11. NEW SECTION. **455C.12B Judicial review.**

25 Judicial review of any order or other action of the
26 commission or director may be sought in accordance with the
27 terms of chapter 17A. Notwithstanding the terms of chapter
28 17A, petitions for judicial review may be filed in the district
29 court of the county in which the alleged offense was committed.

30 Sec. 12. NEW SECTION. **455C.12C Civil actions for compliance**
31 **— penalties.**

32 1. The attorney general, on request of the department, shall
33 institute any legal proceedings necessary to obtain compliance
34 with an order of the commission or the director, including
35 proceedings for a temporary injunction, or prosecuting any

1 person for a violation of an order of the commission or the
2 director or the provisions of this chapter or any rules adopted
3 or permit or order issued pursuant to this chapter.

4 2. Any person who violates any order issued pursuant to
5 455C.12A shall be subject to a civil penalty, not to exceed ten
6 thousand dollars for each day of such violation.

7 Sec. 13. Section 455C.13, Code 2019, is amended to read as
8 follows:

9 **455C.13 Distributors' agreements authorized.**

10 1. A distributor, dealer, or redemption center may enter
11 into a contract or agreement with any other distributor,
12 manufacturer, or person for the purpose of collecting or paying
13 the refund value on, or disposing of, beverage containers as
14 provided in [this chapter](#).

15 2. For purposes of this chapter, any contracts entered into
16 pursuant to this section for the collecting or disposal of
17 empty beverage containers shall not be deemed to interfere with
18 the refund value pursuant to section 455C.2. A contract shall
19 not authorize a person to offer and pay a refund value of less
20 than five cents.

21 Sec. 14. Section 455C.14, subsection 1, Code 2019, is
22 amended to read as follows:

23 1. If the refund value indication required under section
24 455C.5 on an empty nonrefillable metal beverage container
25 is readable but the redemption of the container is lawfully
26 refused by a participating dealer or ~~person operating a~~
27 redemption center under other sections of [this chapter](#) or
28 rules adopted pursuant to these sections, the container
29 shall be accepted and the refund value paid to a consumer
30 as provided in [this section](#). Each beer distributor selling
31 nonrefillable metal beverage containers in this state shall
32 provide individually or collectively by contract or agreement
33 with a dealer, ~~person operating a redemption center,~~ or another
34 person, at least one facility in the county seat of each county
35 where refused empty nonrefillable metal beverage containers

1 having a readable refund value indication as required by
2 this chapter are accepted and redeemed. In cities having a
3 population of twenty-five thousand or more, the number of the
4 facilities provided shall be one for each twenty-five thousand
5 population or a fractional part of that population.

6 Sec. 15. Section 455C.16, Code 2019, is amended to read as
7 follows:

8 **455C.16 Beverage containers — disposal at sanitary landfill**
9 **prohibited.**

10 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
11 containers, ~~by a dealer, distributor, or manufacturer, or~~
12 ~~person operating a redemption center, in a sanitary landfill,~~
13 ~~is prohibited.~~ Beginning September 1, 1992, including the
14 final disposal of beverage containers that used to contain
15 alcoholic liquor as defined in section 123.3, subsection 5, by
16 a ~~dealer, distributor, or manufacturer, or person operating a~~
17 redemption center in a sanitary landfill, is prohibited.

18 Sec. 16. REPEAL. Sections 455C.7 and 455C.10, Code 2019,
19 are repealed.

20 Sec. 17. EFFECTIVE DATE. The following take effect July 1,
21 2020:

22 The sections of this Act amending sections 455C.3 and
23 455C.4.

24 Sec. 18. EFFECTIVE DATE. The following, being deemed of
25 immediate importance, take effect upon enactment:

26 The sections of this Act amending or repealing sections
27 455C.1, 455C.2, 455C.5, 455C.6, 455C.7, 455C.10, 455C.13,
28 455C.14, and 455C.16.

29

EXPLANATION

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

32 Under current law, a consumer may return an empty beverage
33 container upon which a refund value has been paid to a dealer
34 or a redemption center. When a distributor collects empty
35 beverage containers from a dealer, dealer agent, or redemption

1 center, the distributor reimburses the dealer, dealer agent, or
2 redemption center the refund value plus a 1-cent handling fee
3 for each empty beverage container. Current law also allows any
4 person to establish a redemption center that serves a dealer
5 if it is approved by the department of natural resources. Any
6 person can also establish an unapproved redemption center.

7 Under this bill, a dealer may choose to not accept beverage
8 containers by providing notice to the department beginning July
9 1, 2020.

10 The bill raises the handling fee paid by a distributor to
11 2 cents for each empty beverage container. The bill allows a
12 person to establish a redemption center by providing notice to
13 the department. The bill also requires each beverage container
14 to have a registered universal product code in a format
15 required by the department.

16 These provisions take effect upon enactment. The bill
17 creates civil enforcement procedures and penalties for a
18 violation of the provisions of the bill.

19 The bill makes numerous changes throughout Code chapter 455C
20 to change instances of "dealer" to "participating dealer",
21 remove obsolete language, and stylistically and grammatically
22 update the Code chapter.