

Senate Study Bill 1225 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON FEENSTRA)

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 6, Code 2019, is
2 amended to read as follows:

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

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

9 NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer
10 who accepts the return of empty beverage containers from a
11 consumer.

12 Sec. 3. Section 455C.2, Code 2019, is amended to read as
13 follows:

14 **455C.2 Refund values.**

15 1. A refund value of not less than five cents shall be paid
16 by the consumer on each beverage container sold in this state
17 by a dealer for consumption off the premises. Upon return of
18 the empty beverage container upon which a refund value has
19 been paid to the participating dealer or person operating
20 a redemption center and acceptance of the empty beverage
21 container by the participating dealer or person operating a
22 redemption center, the participating dealer or person operating
23 a redemption center shall immediately return the amount of
24 the refund value to the consumer. Upon return of the empty
25 beverage container on which a refund value has been paid to a
26 dealer agent, the dealer agent shall return the amount of the
27 refund value to the consumer within a reasonable time.

28 2. Upon delivery of beverages from a distributor to a
29 dealer, the dealer shall pay a one-cent handling fee per
30 container to the distributor. In addition to the refund value
31 provided in subsection 1 of this section, a participating
32 dealer, dealer agent, or person operating a redemption center
33 who redeems empty beverage containers ~~or a dealer agent~~ shall
34 be reimbursed by the distributor required to accept the empty
35 beverage containers ~~an amount which~~ a handling fee that is one

1 ~~cent~~ two cents per container. A participating dealer, dealer
2 agent, or person operating a redemption center may compact
3 empty metal beverage containers with the approval of the
4 distributor required to accept the containers.

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

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

12 2. A distributor shall accept and pick up from a
13 participating dealer served by the distributor or a redemption
14 center for a dealer served by the distributor at least weekly,
15 or when the distributor delivers the beverage product if
16 deliveries are less frequent than weekly, any empty beverage
17 container of the kind, size, and brand sold by the distributor,
18 and shall pay to the participating dealer or person operating
19 a redemption center the refund value of a beverage container
20 and the reimbursement as provided under [section 455C.2](#) within
21 one week following pickup of the containers or when the
22 participating dealer or redemption center normally pays the
23 distributor for the deposit on beverage products purchased from
24 the distributor if less frequent than weekly. A distributor
25 or employee or agent of a distributor is not in violation
26 of [this subsection](#) if a redemption center is closed when the
27 distributor attempts to make a regular delivery or a regular
28 pickup of empty beverage containers. [This subsection](#) does
29 not apply to a distributor selling alcoholic liquor to the
30 alcoholic beverages division of the department of commerce.

31 4. A distributor shall accept from a dealer agent any empty
32 beverage container of the kind, size, and brand sold by the
33 distributor and ~~which~~ that was picked up by the dealer agent
34 from a participating dealer within the geographic territory
35 served by the distributor and the distributor shall pay the

1 dealer agent the refund value of the empty beverage container
2 and the reimbursement as provided in [section 455C.2](#).

3 Sec. 5. Section 455C.4, Code 2019, is amended to read as
4 follows:

5 **455C.4 Refusal to accept containers.**

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

11 2. A dealer may refuse to accept and to pay the refund value
12 of any empty beverage container ~~if the place of business of the~~
13 ~~dealer and the kind and brand of empty beverage containers are~~
14 ~~included in an order of the department approving a redemption~~
15 ~~center under [section 455C.6](#) after providing notice to the~~
16 department and if the place of business of the dealer is
17 located within a ten-mile radius of a redemption center or
18 dealer agent.

19 ~~3. A dealer or a distributor may refuse to accept and to pay~~
20 ~~the refund value of an empty wine or alcoholic liquor container~~
21 ~~which is marked to indicate that it was sold by a state liquor~~
22 ~~store. The alcoholic beverages division shall not reimburse~~
23 ~~a dealer or a distributor the refund value on an empty wine or~~
24 ~~alcoholic liquor container which is marked to indicate that the~~
25 ~~container was sold by a state liquor store.~~

26 ~~4.~~ 3. A class "E" liquor control licensee may refuse to
27 accept and to pay the refund value on an empty alcoholic liquor
28 container from a participating dealer or a redemption center
29 or from a person acting on behalf of or who has received empty
30 alcoholic liquor containers from a participating dealer or a
31 redemption center.

32 ~~5.~~ 4. A manufacturer or distributor may refuse to accept
33 and to pay the refund value and reimbursement as provided in
34 section 455C.2 on any empty beverage container that was picked
35 up by a participating dealer agent from a dealer outside the

1 geographic territory served by the manufacturer or distributor.

2 Sec. 6. Section 455C.5, subsection 1, Code 2019, is amended
3 to read as follows:

4 1. Each beverage container sold or offered for sale in
5 this state by a dealer shall clearly indicate by embossing or
6 by a stamp, label, or other method securely affixed to the
7 container, the refund value of the container. The department
8 shall specify, by rule, the minimum size of the refund value
9 indication on the beverage containers and require registration
10 of the universal product code for each beverage container in a
11 format required by the department.

12 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2019,
13 are amended to read as follows:

14 1. To facilitate the return of empty beverage containers
15 and to serve dealers of beverages, any person may establish a
16 redemption center, ~~subject to the approval of the department,~~
17 at which consumers may return empty beverage containers
18 and receive payment of the refund value of such beverage
19 containers.

20 2. ~~An application for approval of~~ Written notice of the
21 operation of a redemption center shall be filed with the
22 department. The ~~application~~ notice shall state the name and
23 address of the person responsible for the establishment and
24 operation of the redemption center, ~~the kind and brand names~~
25 ~~of the beverage containers which will be accepted at the~~
26 ~~redemption center,~~ and the names and addresses of the dealers
27 to be served by the redemption center. The ~~application~~ notice
28 shall contain such other information as the director may
29 reasonably require.

30 5. All ~~approved~~ redemption centers shall meet applicable
31 health standards.

32 Sec. 8. Section 455C.6, subsections 3 and 4, Code 2019, are
33 amended by striking the subsections.

34 Sec. 9. Section 455C.12, subsections 2 and 3, Code 2019, are
35 amended to read as follows:

1 2. A distributor who collects or attempts to collect
2 a refund value on an empty beverage container when the
3 distributor has paid the refund value on the container to a
4 participating dealer, redemption center, or consumer is guilty
5 of a fraudulent practice.

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

8 a. Collects or attempts to collect the refund value on the
9 container a second time, with the knowledge that the refund
10 value has once been paid by the distributor to a participating
11 dealer, redemption center, or consumer.

12 b. Manufactures, sells, possesses, or applies a false or
13 counterfeit label or indication which shows or purports to show
14 a refund value for a beverage container, with intent to use the
15 false or counterfeit label or indication.

16 c. Collects or attempts to collect a refund value on
17 a container with the use of a false or counterfeit label
18 or indication showing a refund value, knowing the label or
19 indication to be false or counterfeit.

20 Sec. 10. Section 455C.12, Code 2019, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 6. A person who violates any provision
23 of this chapter shall be subject to a civil penalty of two
24 thousand five hundred dollars per violation, which shall be
25 assessed and collected in the same manner as provided in
26 section 455B.109. Any civil penalty shall be deposited in the
27 general fund of the state.

28 Sec. 11. NEW SECTION. **455C.12A Administrative enforcement**
29 **— compliance orders.**

30 The director may issue any order necessary to secure
31 compliance with or prevent a violation of the provisions of
32 this chapter or any rule adopted or permit or order issued
33 pursuant to this chapter. The person to whom such compliance
34 order is issued may cause to be commenced a contested case
35 within the meaning of chapter 17A by filing within thirty

1 days a notice of appeal to the commission. On appeal, the
2 commission may affirm, modify, or vacate the order of the
3 director.

4 Sec. 12. NEW SECTION. **455C.12B Judicial review.**

5 Judicial review of any order or other action of the
6 commission or director may be sought in accordance with the
7 terms of chapter 17A. Notwithstanding the terms of chapter
8 17A, petitions for judicial review may be filed in the district
9 court of the county in which the alleged offense was committed.

10 Sec. 13. NEW SECTION. **455C.12C Civil actions for compliance**
11 **— penalties.**

12 1. The attorney general, on request of the department, shall
13 institute any legal proceedings necessary to obtain compliance
14 with an order of the commission or the director, including
15 proceedings for a temporary injunction, or prosecuting any
16 person for a violation of an order of the commission or the
17 director, the provisions of this chapter, or any rules adopted
18 or permit or order issued pursuant to this chapter.

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

22 Sec. 14. Section 455C.13, Code 2019, is amended to read as
23 follows:

24 **455C.13 Distributors' agreements authorized.**

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

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

34 Sec. 15. Section 455C.14, subsection 1, Code 2019, is
35 amended to read as follows:

1 1. If the refund value indication required under section
2 455C.5 on an empty nonrefillable metal beverage container
3 is readable but the redemption of the container is lawfully
4 refused by a participating dealer or person operating a
5 redemption center under other sections of **this chapter** or rules
6 adopted pursuant to these sections, the container shall be
7 accepted and the refund value paid to a consumer as provided
8 in **this section**. Each beer distributor selling nonrefillable
9 metal beverage containers in this state shall provide
10 individually or collectively by contract or agreement with a
11 dealer, person operating a redemption center or another person,
12 at least one facility in the county seat of each county where
13 refused empty nonrefillable metal beverage containers having a
14 readable refund value indication as required by **this chapter**
15 are accepted and redeemed. In cities having a population of
16 twenty-five thousand or more, the number of the facilities
17 provided shall be one for each twenty-five thousand population
18 or a fractional part of that population.

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

21 Sec. 17. EFFECTIVE DATE. This Act takes effect July 1,
22 2020.

23 EXPLANATION

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

26 This bill relates to the beverage container control law,
27 also known as the bottle bill.

28 Current law limits beverage containers subject to beverage
29 containers control deposit and refund provisions to any sealed
30 glass, plastic, or metal bottle, can, jar, or carton holding
31 wine, alcoholic liquor, beer, mineral water, soda water, and
32 carbonated soft drinks. When a distributor sells beverages
33 in eligible containers to a dealer, the distributor charges 5
34 cents per eligible container to the sale price. When a dealer
35 sells beverages in eligible containers to a consumer, the

1 dealer charges the 5-cent deposit on each beverage container.
2 A consumer can take eligible beverage containers to a dealer,
3 dealer agent, or a redemption center and receive a 5-cent
4 refund for every eligible beverage container that the consumer
5 returns. A distributor collects eligible containers from a
6 dealer, dealer agent, or redemption center, at which time
7 the distributor pays the dealer, dealer agent, or redemption
8 center 5 cents per eligible container plus a handling fee of an
9 additional 1 cent per empty container.

10 The bill creates a definition for "participating dealer".
11 The bill requires any dealer to pay a 1-cent handling fee to
12 a distributor upon delivery of beverages and increases the
13 handling fee that a participating dealer, dealer agent, or
14 redemption center will charge a distributor from 1 cent to 2
15 cents. The bill requires a participating dealer to accept
16 and pay the refund value of any beverage container, except as
17 currently provided by law. The bill requires a participating
18 dealer or a redemption center to immediately return the
19 refund value to a consumer upon the return and acceptance
20 of a beverage container for which the refund value has been
21 paid. However, a dealer agent shall return the refund value
22 to a consumer within a reasonable time for the return of a
23 beverage container for which the refund value has been paid. A
24 dealer can choose to not be a participating dealer by providing
25 notice to the department of natural resources and only if the
26 place of business of the dealer is within a 10-mile radius of
27 a redemption center or dealer agent. The bill requires the
28 registration of the universal product code for each beverage
29 container in a format provided by the department of natural
30 resources. The bill requires a redemption center to file a
31 notice with the department of natural resources but does not
32 require the department of natural resources to grant approval
33 for any redemption centers. The bill also allows a dealer or
34 person operating a redemption center to enter into contracts
35 or agreements for the collection or disposal of beverage

1 containers.

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

9 The bill takes effect July 1, 2020.