

Senate Study Bill 3109 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON DAWSON)

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, subsections 1, 6, and 13, Code
2 2020, are 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 cocktails as defined in section
8 123.3, subsection 11, mineral water, soda water, and similar
9 carbonated soft drinks in liquid form and intended for human
10 consumption.

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

15 13. "*Redemption center*" means a facility at which consumers
16 may return empty beverage containers and receive payment for
17 the refund value of the empty beverage containers. "Redemption
18 center" includes but is not limited to a participating dealer.

19 Sec. 2. Section 455C.1, Code 2020, is amended by adding the
20 following new subsection:

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

24 Sec. 3. Section 455C.2, Code 2020, is amended to read as
25 follows:

26 **455C.2 Refund values.**

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

1 empty beverage container on which a refund value has been paid
2 to a dealer agent, the dealer agent shall return the amount of
3 the refund value to the consumer within a reasonable time.

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

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

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

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

1 violation of [this subsection](#) if a redemption center is closed
2 when the distributor attempts to make a regular delivery or a
3 regular pickup of empty beverage containers. [This subsection](#)
4 does 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. 5. 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 ~~dealer, a person operating a redemption center, a distributor,~~
18 or a manufacturer may refuse to accept any empty beverage
19 container ~~which~~ that does not have stated on it a refund value
20 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 dealer's place of business is located
27 within the applicable radius as follows:

28 a. For July 1, 2021, through June 30, 2022, a fifteen-mile
29 radius of a redemption center or dealer agent.

30 b. For July 1, 2022, through June 30, 2023, a twenty-mile
31 radius of a redemption center or dealer agent.

32 c. On and after July 1, 2023, a twenty-five-mile radius of a
33 redemption center or dealer agent.

34 ~~3. A dealer or a distributor may refuse to accept and to pay~~
35 ~~the refund value of an empty wine or alcoholic liquor container~~

1 ~~which is marked to indicate that it was sold by a state liquor~~
2 ~~store. The alcoholic beverages division shall not reimburse~~
3 ~~a dealer or a distributor the refund value on an empty wine or~~
4 ~~alcoholic liquor container which is marked to indicate that the~~
5 ~~container was sold by a state liquor store.~~

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

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

16 Sec. 6. Section 455C.5, subsection 1, Code 2020, is amended
17 to read as follows:

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

27 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2020,
28 are amended to read as follows:

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

35 2. ~~An application for approval of a~~ A redemption center

1 that is not a participating dealer shall file written notice
2 of the operation of the redemption center ~~shall be filed~~ with
3 the department. The ~~application~~ notice shall state the name
4 and address of the person responsible for the establishment
5 and operation of the redemption center, ~~the kind and brand~~
6 ~~names of the beverage containers which will be accepted at~~
7 ~~the redemption center,~~ and the names and addresses of the
8 dealers to be served by the redemption center. The ~~application~~
9 notice shall contain such other information as the director may
10 reasonably require.

11 5. All ~~approved~~ redemption centers shall meet applicable
12 health standards.

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

15 Sec. 9. Section 455C.12, subsections 2 and 3, Code 2020, are
16 amended to read as follows:

17 2. A distributor who collects or attempts to collect
18 a refund value on an empty beverage container when the
19 distributor has paid the refund value on the container to
20 a ~~dealer,~~ redemption center, or consumer is guilty of a
21 fraudulent practice.

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

24 a. Collects or attempts to collect the refund value on the
25 container a second time, with the knowledge that the refund
26 value has once been paid by the distributor to a ~~dealer,~~
27 redemption center or consumer.

28 b. Manufactures, sells, possesses, or applies a false or
29 counterfeit label or indication ~~which~~ that shows or purports to
30 show a refund value for a beverage container, with intent to
31 use the false or counterfeit label or indication.

32 c. Collects or attempts to collect a refund value on
33 a container with the use of a false or counterfeit label
34 or indication showing a refund value, knowing the label or
35 indication to be false or counterfeit.

1 Sec. 10. Section 455C.12, Code 2020, is amended by adding
2 the following new subsection:

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

9 Sec. 11. NEW SECTION. **455C.12A Administrative enforcement**
10 **— compliance orders.**

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

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

21 Judicial review of any order or other action of the
22 commission or director may be sought in accordance with the
23 terms of chapter 17A. Notwithstanding the terms of chapter
24 17A, petitions for judicial review may be filed in the district
25 court of the county in which the alleged offense was committed.

26 Sec. 13. NEW SECTION. **455C.12C Civil actions for compliance**
27 **— penalties.**

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

35 2. Any person who violates any order issued pursuant to

1 section 455C.12A shall be subject to a civil penalty not to
2 exceed ten thousand dollars for each day of such violation.

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

5 **455C.13 Distributors' agreements authorized.**

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

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

15 Sec. 15. Section 455C.14, subsection 1, Code 2020, is
16 amended to read as follows:

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

35 Sec. 16. Section 455C.16, Code 2020, is amended to read as

1 follows:

2 **455C.16 Beverage containers — disposal at sanitary landfill**
3 **prohibited.**

4 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
5 containers ~~by a dealer, distributor, or manufacturer, or person~~
6 ~~operating a redemption center, in a sanitary landfill, is~~
7 ~~prohibited. Beginning September 1, 1992, including~~ the final
8 disposal of beverage containers that used to contain alcoholic
9 liquor as defined in [section 123.3, subsection 5](#), by a dealer,
10 distributor, ~~or~~ manufacturer, or ~~person operating a redemption~~
11 center in a sanitary landfill, is prohibited.

12 Sec. 17. NEW SECTION. **455C.18 Report required — future**
13 **repeal.**

14 1. On June 30, 2030, and on June 30 of each year thereafter,
15 the department shall submit a report to the general assembly
16 detailing the three-year rolling average redemption rate for
17 beverage containers in this state for the three calendar years
18 preceding the year in which the report is submitted.

19 2. If the three-year rolling average redemption rate
20 reported by the department pursuant to subsection 1 is below
21 sixty-five percent, this chapter is repealed effective on the
22 date the report is submitted.

23 Sec. 18. REPEAL. Sections 455C.7 and 455C.10, Code 2020,
24 are repealed.

25 Sec. 19. EFFECTIVE DATE. This Act takes effect July 1,
26 2021.

27

EXPLANATION

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

30 This bill relates to the beverage containers control
31 program, also known as the bottle bill.

32 Current law limits beverage containers subject to beverage
33 containers control deposit and refund provisions to any sealed
34 glass, plastic, or metal bottle, can, jar, or carton holding
35 wine, alcoholic liquor, beer, mineral water, soda water, and

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

14 The bill adds high alcoholic content beer and canned
15 cocktails to the definition of "beverage". The bill creates
16 a definition for "participating dealer". The bill amends the
17 definition of "redemption center" to include participating
18 dealers. The bill requires any dealer to pay a 1-cent handling
19 fee to a distributor upon delivery of beverages and increases
20 the handling fee that a dealer agent or redemption center will
21 charge a distributor from 1 cent to 2 cents. The bill requires
22 a participating dealer to accept and pay the refund value of
23 any beverage container, except as currently provided by law.
24 The bill requires a redemption center to immediately return
25 the refund value to a consumer upon the return and acceptance
26 of a beverage container for which the refund value has been
27 paid. However, a dealer agent shall return the refund value
28 to a consumer within a reasonable time for the return of a
29 beverage container for which the refund value has been paid. A
30 dealer can choose to not be a participating dealer by providing
31 notice to the department of natural resources and only if
32 the dealer's place of business is within a certain radius of
33 a redemption center or dealer agent. The bill requires the
34 registration of the universal product code for each beverage
35 container in a format provided by the department. The bill

1 requires a redemption center that is not a participating dealer
2 to file a notice with the department but does not require the
3 department's approval to operate any redemption centers. The
4 bill removes provisions of Code chapter 455C that relate to
5 the department's authority to approve redemption centers. The
6 bill also allows a dealer or redemption center to enter into
7 contracts or agreements for the collection or disposal of
8 beverage containers.

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

16 On June 30, 2030, and on June 30 of each year thereafter, the
17 bill requires the department to submit a report to the general
18 assembly detailing the three-year rolling average redemption
19 rate for the three calendar years preceding the year in which
20 the report is submitted. The bill provides for the repeal
21 of the beverage containers control program if the three-year
22 rolling average redemption rate falls below 65 percent as
23 reported by the department.

24 The bill takes effect July 1, 2021.