

House File 151 - Introduced

HOUSE FILE 151

BY LOHSE

A BILL FOR

1 An Act relating to the applicability of the beverage containers
2 control program and making appropriations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 16.41, subsection 1, Code 2021, is
2 amended to read as follows:

3 1. A shelter assistance fund is created as a revolving
4 fund in the state treasury under the control of the authority
5 consisting of any moneys appropriated by the general assembly
6 and received under section 428A.8 and section 455C.11 for
7 costs of operations of shelters for the homeless and domestic
8 violence shelters, essential services for the homeless, and
9 evaluation and reporting of services for the homeless. Each
10 fiscal year, moneys in the fund, in an amount equal to not more
11 than three percent of the total moneys distributed as grants
12 from the fund during the fiscal year, may be used for purposes
13 of administering the fund.

14 Sec. 2. Section 190B.201, subsection 1, Code 2021, is
15 amended to read as follows:

16 1. An Iowa emergency food purchase program fund is
17 established in the state treasury and shall be administered by
18 the department of agriculture and land stewardship. The fund
19 shall consist of moneys appropriated to the fund pursuant to
20 section 602.8108, subsection 11, section 455C.11, subsection 2,
21 and any other moneys appropriated to the fund.

22 Sec. 3. Section 455C.1, subsections 1 and 6, Code 2021, are
23 amended to read as follows:

24 1. "*Beverage*" means wine as defined in section 123.3,
25 subsection 54, alcoholic liquor as defined in section 123.3,
26 subsection 5, beer as defined in section 123.3, subsection
27 7, high alcoholic content beer as defined in section 123.3,
28 subsection 22, canned cocktail as defined in section 123.3,
29 subsection 11, mineral water, soda water, and similar
30 carbonated soft drinks in liquid form and intended for human
31 consumption.

32 6. "*Dealer agent*" means a person who solicits or picks
33 up empty beverage containers from a participating dealer for
34 the purpose of returning the empty beverage containers to a
35 distributor or manufacturer.

1 Sec. 4. Section 455C.1, Code 2021, is amended by adding the
2 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. 5. Section 455C.2, Code 2021, 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
20 1 of [this section](#), a participating dealer, dealer agent,
21 or person operating a redemption center who redeems empty
22 beverage containers ~~or a dealer agent~~ shall be reimbursed
23 by the distributor required to accept the empty beverage
24 containers an amount which is ~~one cent~~ two cents per container.
25 A participating dealer, dealer agent, or person operating a
26 redemption center may compact empty metal beverage containers
27 with the approval of the distributor required to accept the
28 containers.

29 Sec. 6. Section 455C.3, subsections 1, 2, and 4, Code 2021,
30 are amended to read as follows:

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

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

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

27 Sec. 7. Section 455C.4, Code 2021, is amended to read as
28 follows:

29 **455C.4 Refusal to accept containers.**

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

35 2. A dealer may refuse to accept and to pay the refund value

1 of any empty beverage container ~~if the place of business of the~~
2 ~~dealer and the kind and brand of empty beverage containers are~~
3 ~~included in an order of the department approving a redemption~~
4 ~~center under section 455C.6 after providing notice to the~~
5 ~~department if the place of business of the dealer is located~~
6 ~~within a twenty-mile radius of a redemption center or dealer~~
7 ~~agent or if the dealer sells prepared food for consumption on~~
8 ~~or off the premises.~~

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

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

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

27 Sec. 8. Section 455C.5, subsection 1, Code 2021, is amended
28 to read as follows:

29 1. Each beverage container sold or offered for sale in
30 this state by a dealer shall clearly indicate the refund value
31 of the container by embossing or by a stamp, label, or other
32 method securely affixed to the container, ~~the refund value of~~
33 ~~the container.~~ The department shall specify, by rule, the
34 minimum size of the refund value indication on the beverage
35 containers.

1 Sec. 9. Section 455C.7, Code 2021, is amended to read as
2 follows:

3 **455C.7 Unapproved redemption centers.**

4 Any person may establish a redemption center ~~which~~ that has
5 not been approved by the department, at which a consumer may
6 return empty beverage containers and receive payment of the
7 refund value of the beverage containers. The establishment
8 of an unapproved redemption center shall not relieve any
9 dealer from the responsibility of redeeming any empty beverage
10 containers of the kind and brand sold by the dealer except as
11 provided in section 455C.4, subsection 2.

12 Sec. 10. NEW SECTION. **455C.11 Unpaid refund value.**

13 1. Except as provided in subsection 2, a distributor shall
14 keep all refund value that has not been paid by the distributor
15 to a participating dealer, dealer agent, or redemption
16 center. On or before January 31 of each year, the distributor
17 shall submit to the department in a manner determined by the
18 department a report detailing the amount of unpaid refund value
19 that the distributor held at the end of the preceding calendar
20 year.

21 2. Fifteen percent of the refund value that has not been
22 paid by a distributor to a participating dealer, dealer agent,
23 or redemption center on and after July 1, 2021, shall be
24 credited monthly to the treasurer of state for deposit in the
25 following manner:

26 a. One-third of the amount credited to the treasurer of
27 state shall be deposited in the redemption rate improvement
28 projects fund established in section 455C.11A.

29 b. One-third of the amount credited to the treasurer
30 of state shall be deposited in the shelter assistance fund
31 established in section 16.41.

32 c. One-third of the amount credited to the treasurer of
33 state shall be deposited in the Iowa emergency food purchase
34 program fund established in section 190B.201.

35 Sec. 11. NEW SECTION. **455C.11A Redemption rate improvement**

1 **projects program — fund created.**

2 1. The department shall establish and the commission shall
3 administer a redemption rate improvement projects program. The
4 purpose of the program shall be to launch initiatives with
5 interested parties to increase the redemption rate of beverage
6 containers in the state. The program shall be administered in
7 accordance with rules adopted by the commission pursuant to
8 chapter 17A.

9 2. A redemption rate improvement projects program fund is
10 established in the state treasury under the control of the
11 commission. The fund shall consist of moneys appropriated to
12 or deposited in the fund. Moneys in the fund are appropriated
13 to the commission for purposes set forth under subsection 3.
14 Notwithstanding section 8.33, moneys in the fund that remain
15 unencumbered or unobligated at the close of a fiscal year shall
16 not revert but shall remain available for expenditure for the
17 purposes designated. Notwithstanding section 12C.7, subsection
18 2, interest or earnings on moneys in the fund shall be credited
19 to the fund.

20 3. Moneys in the fund shall be used by the commission to
21 cover costs for the administration of the program, purchase and
22 distribute materials for marketing the program, and provide
23 public education and outreach relating to beverage container
24 redemption.

25 Sec. 12. Section 455C.12, subsections 2 and 3, Code 2021,
26 are amended to read as follows:

27 2. A distributor who collects or attempts to collect
28 a refund value on an empty beverage container when the
29 distributor has paid the refund value on the container to a
30 participating dealer, redemption center, or consumer is guilty
31 of a fraudulent practice.

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

34 a. Collects or attempts to collect the refund value on the
35 container a second time, with the knowledge that the refund

1 value has once been paid by the distributor to a participating
2 dealer, redemption center, or consumer.

3 b. Manufactures, sells, possesses, or applies a false or
4 counterfeit label or indication ~~which~~ that shows or purports to
5 show a refund value for a beverage container, with intent to
6 use the false or counterfeit label or indication.

7 c. Collects or attempts to collect a refund value on
8 a container with the use of a false or counterfeit label
9 or indication showing a refund value, knowing the label or
10 indication to be false or counterfeit.

11 EXPLANATION

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

14 This bill relates to the applicability of the beverage
15 containers control program.

16 Under current law, when a distributor sells beverages in
17 eligible containers to a dealer, the distributor adds 5 cents
18 per eligible container to the sale price. When a dealer sells
19 beverages in eligible containers to a consumer, the dealer
20 charges the 5-cent deposit on each beverage container. A
21 consumer can take eligible beverage containers to a dealer,
22 dealer agent, or redemption center and receive a 5-cent
23 refund for every eligible beverage container that the consumer
24 returns. A distributor collects eligible containers from a
25 dealer, dealer agent, or redemption center, at which time
26 the distributor pays the dealer, dealer agent, or redemption
27 center 5 cents per eligible container plus a handling fee of
28 an additional 1 cent per empty container. The bill raises the
29 handling fee paid by a distributor to 2 cents for each empty
30 beverage container.

31 Under the bill, a dealer may choose to not accept beverage
32 containers by providing notice to the department of natural
33 resources (DNR) if the dealer's place of business is within a
34 20-mile radius of a redemption center or dealer agent or if
35 the dealer sells prepared food for consumption on or off the

1 premises. The bill refers to dealers that accept beverage
2 containers as "participating dealers".

3 The bill requires a distributor to keep all refund value
4 that has not been paid by the distributor to a participating
5 dealer, dealer agent, or redemption center and provide an
6 annual report to DNR detailing the amount of unpaid refund
7 value that the distributor held at the end of the preceding
8 calendar year. On a monthly basis beginning July 1, 2021,
9 15 percent of the unpaid refund value that the distributor
10 holds shall be credited to the treasurer of state. One-third
11 of the amount credited shall be deposited in the shelter
12 assistance fund administered by the Iowa finance authority.
13 One-third of the amount credited shall be deposited in the
14 Iowa emergency food purchase program fund administered by the
15 department of agriculture and land stewardship. The remaining
16 one-third of the amount credited shall be deposited in the
17 redemption rates improvement projects fund, which is created
18 by the bill in the state treasury under the control of the
19 environmental protection commission. Moneys in the fund shall
20 be administered by the commission and shall be allocated for
21 purposes of launching and administering initiatives to increase
22 the rate of redemption of beverage containers.

23 The bill makes numerous changes throughout Code chapter 455C
24 to change instances of "dealer" to "participating dealer",
25 remove obsolete language, and stylistically and grammatically
26 update the Code chapter.