

House File 2524 - Introduced

HOUSE FILE 2524

BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 709)

A BILL FOR

1 An Act relating to beverage containers control provisions,
2 including handling fees, refund value, applicability to
3 certain beverages, and acceptance of beverage containers,
4 and providing penalties.

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

1 Section 1. Section 455C.1, subsections 1 and 6, Code 2022,
2 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 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 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 Sec. 2. Section 455C.1, Code 2022, is amended by adding the
16 following new subsection:

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

20 Sec. 3. Section 455C.2, Code 2022, is amended to read as
21 follows:

22 **455C.2 Refund values.**

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

1 2. In addition to the refund value provided in subsection
2 1 of ~~this section~~, a participating dealer, dealer agent, or
3 person operating a redemption center who redeems empty beverage
4 containers ~~or a dealer agent~~ shall be reimbursed by the
5 distributor required to accept the empty beverage containers
6 ~~an amount which a~~ handling fee that, before January 1, 2032,
7 ~~is one cent~~ two cents per container. On and after January 1,
8 2032, the handling fee shall be one and one-half cents per
9 container. A participating dealer, dealer agent, or person
10 operating a redemption center may compact empty metal beverage
11 containers with the approval of the distributor required to
12 accept the containers.

13 3. Upon delivery of beverages from a distributor to a
14 dealer, the dealer shall pay a handling fee of one-half cent
15 per container to the distributor. This subsection is repealed
16 January 1, 2032.

17 Sec. 4. Section 455C.3, subsections 1, 2, and 4, Code 2022,
18 are amended to read as follows:

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

24 2. A distributor shall accept and pick up from a
25 participating dealer served by the distributor or a redemption
26 center for a dealer served by the distributor at least weekly,
27 or when the distributor delivers the beverage product if
28 deliveries are less frequent than weekly, any empty beverage
29 container of the kind, size, and brand sold by the distributor,
30 and shall pay to the participating dealer or person operating
31 a redemption center the refund value of a beverage container
32 and the reimbursement as provided under [section 455C.2](#) within
33 one week following pickup of the containers or when the
34 participating dealer or redemption center normally pays the
35 distributor for the deposit on beverage products purchased from

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

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

15 Sec. 5. Section 455C.4, Code 2022, is amended to read as
16 follows:

17 **455C.4 Refusal to accept containers.**

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

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

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

~~1 alcoholic liquor container which is marked to indicate that the
2 container was sold by a state liquor store.~~

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

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

14 Sec. 6. Section 455C.5, subsection 1, Code 2022, is amended
15 to read as follows:

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

25 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2022,
26 are amended to read as follows:

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

33 2. ~~An application for approval of a~~ A person operating a
34 redemption center shall file written notice of the operation
35 of the redemption center shall be filed with the department.

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

8 5. All ~~approved~~ redemption centers shall meet applicable
9 health standards.

10 Sec. 8. Section 455C.6, subsections 3 and 4, Code 2022, are
11 amended by striking the subsections.

12 Sec. 9. Section 455C.12, subsections 2 and 3, Code 2022, are
13 amended to read as follows:

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

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

21 a. Collects or attempts to collect the refund value on the
22 container a second time, with the knowledge that the refund
23 value has once been paid by the distributor to a participating
24 dealer, redemption center, or consumer.

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

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

33 Sec. 10. Section 455C.12, Code 2022, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 6. Except as provided in section 455C.12C,

1 a person who violates any provision of this chapter shall be
2 subject to a civil penalty of two thousand five hundred dollars
3 per violation, which shall be assessed and collected in the
4 same manner as provided in section 455B.109. Any civil penalty
5 collected under this subsection or section 455C.12C shall be
6 deposited in the general fund of the state.

7 Sec. 11. NEW SECTION. **455C.12A Administrative enforcement**
8 **— compliance orders.**

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

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

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

24 Sec. 13. NEW SECTION. **455C.12C Civil actions for compliance**
25 **— penalties.**

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

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

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

8 The bill adds high alcoholic content beer and canned
9 cocktails to the definition of "beverage". The bill defines
10 the term "participating dealer". The bill requires a dealer to
11 pay a .5-cent handling fee to a distributor upon delivery of
12 beverages prior to January 1, 2032, and increases the handling
13 fee that a participating dealer, dealer agent, or redemption
14 center will collect from a distributor from 1 cent to 2 cents.
15 The handling fee will decrease to 1.5 cents on January 1, 2032.

16 The bill requires a participating dealer to accept and pay
17 the refund value of any empty beverage container, except as
18 currently provided by law. The bill requires a participating
19 dealer or a redemption center to immediately return the refund
20 value to a consumer upon the return and acceptance of an
21 empty beverage container for which the refund value has been
22 paid. However, a dealer agent must return the refund value
23 to a consumer within a reasonable time of the return of an
24 empty beverage container for which the refund value has been
25 paid, rather than immediately. A dealer can choose to not be
26 a participating dealer if the dealer provides notice to the
27 department of natural resources (DNR) and the place of business
28 of the dealer is within a 15-mile radius of a redemption center
29 or dealer agent.

30 The bill requires the registration of the universal product
31 code for each beverage container in a format determined by DNR.

32 The bill requires a redemption center to file a notice with
33 DNR but does not require DNR's approval to operate a redemption
34 center. The bill removes provisions of Code chapter 455C
35 that relate to DNR's authority to approve redemption centers

1 and that relate to the redemption of refused nonrefillable
2 metal beverage containers. The bill also allows a dealer or
3 person operating a redemption center to enter into contracts
4 or agreements for the collection or disposal of beverage
5 containers.

6 The bill authorizes DNR to establish a civil penalty of
7 \$2,500 for a violation of any provision of Code chapter 455C,
8 except for a violation of a compliance order. The bill allows
9 DNR to issue compliance orders, subject to judicial review,
10 that may be enforced by the attorney general. A violation of a
11 compliance order is subject to a civil penalty of not more than
12 \$10,000 per day per violation.

13 The bill provides that any amount of refund value or handling
14 fees possessed by a distributor after the distributor has made
15 required payments shall be considered the property of the
16 distributor.