

House File 872 - Introduced

HOUSE FILE 872

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 814)

(SUCCESSOR TO HSB 252)

A BILL FOR

1 An Act relating to the redemption of beverage containers,
2 providing civil penalties, and including effective date
3 provisions.

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

1 Section 1. Section 455C.1, subsections 1 and 6, Code 2021,
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 2021, 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 2021, 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~~ a 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 1](#)
2 ~~of [this section](#)~~, a participating dealer, ~~or person operating a~~
3 ~~redemption center, who redeems empty beverage containers~~ or a
4 dealer agent shall be reimbursed by the distributor required to
5 accept the empty beverage containers an amount ~~which~~ that is
6 one cent per container. A participating dealer, dealer agent,
7 ~~or person operating a~~ redemption center may compact empty
8 metal beverage containers with the approval of the distributor
9 required to accept the containers.

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

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

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

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

8 Sec. 5. Section 455C.4, Code 2021, is amended to read as
9 follows:

10 **455C.4 Refusal to accept containers.**

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

16 2. A dealer may refuse to accept and to pay the refund value
17 of any empty beverage container if the ~~place of business of the~~
18 ~~dealer and the kind and brand of empty beverage containers are~~
19 ~~included in an order of the department approving a redemption~~
20 ~~center under [section 455C.6](#)~~ dealer enters a contract with a
21 dealer agent or redemption center who will accept beverage
22 containers on the dealer's behalf. A dealer may only enter a
23 contract with a redemption center under this subsection if the
24 dealer's place of business is in a county with a population
25 of more than thirty thousand and within ten miles of the
26 redemption center or if the dealer's place of business is in a
27 county with a population of thirty thousand or fewer and within
28 fifteen miles of the redemption center.

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

1 ~~4.~~ 3. A class "E" liquor control licensee may refuse to
2 accept and to pay the refund value on an empty alcoholic liquor
3 container from a participating dealer or a redemption center
4 or from a person acting on behalf of or who has received empty
5 alcoholic liquor containers ~~from a dealer~~ or a redemption
6 center.

7 ~~5.~~ 4. A manufacturer or distributor may refuse to accept
8 and to pay the refund value and reimbursement as provided in
9 section 455C.2 on any empty beverage container that was picked
10 up by a dealer agent ~~from a dealer~~ outside the geographic
11 territory served by the manufacturer or distributor.

12 Sec. 6. Section 455C.5, subsection 1, Code 2021, is amended
13 to read as follows:

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

23 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2021,
24 are amended to read as follows:

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

31 2. ~~An application for approval of~~ Written notice of the
32 operation of a redemption center shall be filed with the
33 department. The ~~application~~ notice shall state the name and
34 address of the person responsible for the establishment and
35 operation of the redemption center, ~~the kind and brand names~~

1 ~~of the beverage containers which will be accepted at the~~
2 ~~redemption center,~~ and the names and addresses of the dealers
3 to be served by the redemption center. The application notice
4 shall contain such other information as the director may
5 reasonably require.

6 5. All ~~approved~~ redemption centers shall meet applicable
7 health standards.

8 Sec. 8. Section 455C.6, subsections 3 and 4, Code 2021, are
9 amended by striking the subsections.

10 Sec. 9. Section 455C.12, subsections 2 and 3, Code 2021, are
11 amended to read as follows:

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

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

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

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

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

31 Sec. 10. Section 455C.12, Code 2021, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 6. A person who violates any provision of
34 this chapter shall be subject to a civil penalty that shall
35 be established, assessed, and collected in the same manner as

1 provided in section 455B.109, but shall not exceed two thousand
2 five hundred dollars. Any civil penalty collected under this
3 chapter shall be deposited in the general fund of the state.

4 Sec. 11. NEW SECTION. **455C.12A Administrative enforcement**
5 **— compliance orders.**

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

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

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

21 Sec. 13. NEW SECTION. **455C.12C Civil actions for compliance**
22 **— penalties.**

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

30 2. Any person who violates an order issued pursuant to
31 section 455C.12A shall be subject to a civil penalty, not to
32 exceed two thousand five hundred dollars for each day of such
33 violation.

34 Sec. 14. Section 455C.13, Code 2021, is amended to read as
35 follows:

1 **455C.13 Distributors' agreements authorized.**

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

7 2. For purposes of this chapter, any contracts entered into
8 pursuant to this section for the collection or disposal of
9 empty beverage containers shall not be deemed to interfere with
10 the refund value pursuant to section 455C.2. A contract shall
11 not authorize a person to offer and pay a refund value of less
12 than five cents.

13 Sec. 15. Section 455C.14, subsection 1, Code 2021, is
14 amended to read as follows:

15 1. If the refund value indication required under section
16 455C.5 on an empty nonrefillable metal beverage container
17 is readable but the redemption of the container is lawfully
18 refused by a participating dealer or ~~person operating a~~
19 redemption center under other sections of [this chapter](#) or
20 rules adopted pursuant to these sections, the container
21 shall be accepted and the refund value paid to a consumer
22 as provided in [this section](#). Each beer distributor selling
23 nonrefillable metal beverage containers in this state shall
24 provide individually or collectively by contract or agreement
25 with a dealer, ~~person operating a redemption center,~~ or another
26 person, at least one facility in the county seat of each county
27 where refused empty nonrefillable metal beverage containers
28 having a readable refund value indication as required by
29 this chapter are accepted and redeemed. In cities having a
30 population of twenty-five thousand or more, the number of the
31 facilities provided shall be one for each twenty-five thousand
32 population or a fractional part of that population.

33 Sec. 16. REPEAL. Sections 455C.7 and 455C.10, Code 2021,
34 are repealed.

35 Sec. 17. EFFECTIVE DATE. This Act takes effect July 1,

1 2023.

2

EXPLANATION

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

5 Under current law, a consumer may return an empty beverage
6 container upon which a refund value has been paid to a dealer
7 or a redemption center. When a distributor collects empty
8 beverage containers from a dealer, dealer agent, or redemption
9 center, the distributor reimburses the dealer, dealer agent, or
10 redemption center the refund value plus a 1-cent handling fee
11 for each empty beverage container. Current law also allows any
12 person to establish a redemption center that serves a dealer
13 if it is approved by the department of natural resources. Any
14 person can also establish an unapproved redemption center.

15 Under this bill, a dealer may choose to not accept beverage
16 containers if the dealer enters into a contract with a dealer
17 agent or redemption center who will accept beverage containers
18 on the dealer's behalf. A dealer may only enter such contract
19 with a redemption center if the dealer's place of business is
20 in a county with a population of more than 30,000 and within
21 10 miles of the redemption center or if the dealer's place of
22 business is in a county with a population of 30,000 or fewer
23 and within 15 miles of the redemption center.

24 The bill amends the definition of "dealer agent" so that a
25 dealer agent is not limited to soliciting or picking up empty
26 beverage containers from a dealer. The bill allows a person
27 to establish a redemption center by providing notice to the
28 department. The bill also requires each beverage container to
29 have a registered universal product code in a format required
30 by the department.

31 The bill creates civil enforcement procedures and penalties
32 for a violation of the provisions of the bill, including a
33 civil penalty of up to \$2,500.

34 The bill makes numerous changes throughout Code chapter 455C
35 to change instances of "dealer" to "participating dealer",

H.F. 872

1 remove obsolete language, and stylistically and grammatically

2 update the Code chapter.

3 The bill takes effect July 1, 2023.