

Senate Study Bill 1160 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES AND
ENVIRONMENT BILL BY
CHAIRPERSON SWEENEY)

A BILL FOR

1 An Act relating to the redemption and handling of beverage
2 containers, providing civil penalties, and including
3 effective date 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
12 up empty beverage containers from a participating dealer for
13 the purpose of returning the empty beverage containers to a
14 distributor or 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 return the amount of the refund value
32 to the consumer.

33 2. In addition to the refund value provided in subsection 1
34 ~~of this section~~, a participating dealer, or ~~person operating a~~
35 redemption center ~~who redeems empty beverage containers,~~ or a

1 dealer agent shall be reimbursed by the distributor required
2 to accept the empty beverage containers an amount ~~which~~ that
3 is ~~one cent~~ two cents per container. A participating dealer,
4 dealer agent, or ~~person operating~~ a redemption center may
5 compact empty metal beverage containers with the approval of
6 the distributor required to accept the containers.

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

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

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

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

1 from a participating dealer within the geographic territory
2 served by the distributor and the distributor shall pay the
3 dealer agent the refund value of the empty beverage container
4 and the reimbursement as provided in [section 455C.2](#).

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

7 **455C.4 Refusal to accept containers.**

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

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

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 dealer agent from a participating dealer outside the

1 geographic territory served by the manufacturer or distributor.

2 Sec. 6. Section 455C.5, subsection 1, Code 2021, 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 the refund value
6 of the container by embossing or by a stamp, label, or other
7 method securely affixed to the container, ~~the refund value of~~
8 ~~the container~~. The department shall specify, by rule, the
9 minimum size of the refund value indication on the beverage
10 containers and require registration of the universal product
11 code for each beverage container in a format required by the
12 department.

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

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

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

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

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

35 Sec. 9. Section 455C.12, subsections 2 and 3, Code 2021, are

1 amended to read as follows:

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

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

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

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

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

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

23 NEW SUBSECTION. 6. A person who violates any provision of
24 this chapter shall be subject to a civil penalty that shall
25 be established, assessed, and collected in the same manner as
26 provided in section 455B.109. Any civil penalty collected
27 under this chapter shall be deposited in the general fund of
28 the state.

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

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

1 within the meaning of chapter 17A by filing within thirty
2 days a notice of appeal to the commission. On appeal, the
3 commission may affirm, modify, or vacate the order of the
4 director.

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

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

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

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

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

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

25 **455C.13 Distributors' agreements authorized.**

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

31 2. For purposes of this chapter, any contracts entered into
32 pursuant to this section for the collection or disposal of
33 empty beverage containers shall not be deemed to interfere with
34 the refund value pursuant to section 455C.2. A contract shall
35 not authorize a person to offer and pay a refund value of less

1 than five cents.

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

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

22 Sec. 16. Section 455C.16, Code 2021, is amended to read as
23 follows:

24 **455C.16 Beverage containers — disposal at sanitary landfill**
25 **prohibited.**

26 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
27 containers ~~by a dealer, distributor, or manufacturer, or person~~
28 ~~operating a redemption center, in a sanitary landfill, is~~
29 ~~prohibited. Beginning September 1, 1992, including~~ the final
30 disposal of beverage containers that used to contain alcoholic
31 liquor as defined in section 123.3, subsection 5, by a dealer,
32 distributor, ~~or~~ manufacturer, or ~~person operating a redemption~~
33 center in a sanitary landfill, ~~is prohibited.~~

34 Sec. 17. REPEAL. Sections 455C.7 and 455C.10, Code 2021,
35 are repealed.

S.F. _____

- 1 remove obsolete language, and stylistically and grammatically
- 2 update the Code chapter.
- 3 Except as otherwise provided, the bill takes effect upon
- 4 enactment.