

Senate File 2378 - Reprinted

SENATE FILE 2378

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2122)

(As Amended and Passed by the Senate March 29, 2022)

A BILL FOR

1 An Act relating to beverages, including the barrel tax
2 and the acceptance of beverage containers for refund
3 value, providing penalties, and including effective date
4 provisions.

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

1 Section 1. Section 123.136, subsection 1, Code 2022, is
2 amended to read as follows:

3 1. In addition to the annual permit fee to be paid by
4 all class "A" beer permittees under this chapter there shall
5 be levied and collected from the permittees on all beer
6 manufactured for sale or sold in this state at wholesale and
7 on all beer imported into this state for sale at wholesale and
8 sold in this state at wholesale, and from special class "A"
9 beer permittees on all beer manufactured for consumption on the
10 premises and on all beer sold at retail at the manufacturing
11 premises for consumption off the premises pursuant to section
12 123.130, subsection 4, a tax of ~~five and eighty-nine~~ four and
13 three hundredths dollars for every barrel containing thirty-one
14 gallons, and at a like rate for any other quantity or for the
15 fractional part of a barrel. However, no tax shall be levied
16 or collected on beer shipped outside this state by a class "A"
17 beer permittee or special class "A" beer permittee or on beer
18 sold to a class "A" beer permittee by a special class "A" beer
19 permittee or another class "A" beer permittee.

20 Sec. 2. Section 455C.1, subsections 1 and 6, Code 2022, are
21 amended to read as follows:

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

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

34 Sec. 3. Section 455C.1, Code 2022, is amended by adding the
35 following new subsections:

1 NEW SUBSECTION. 11A. *"Mobile redemption system"* means a
2 redemption center location at which a consumer may return empty
3 beverage containers on which a refund value has been paid that
4 uses innovative technology to process empty beverage containers
5 and return the amount of the refund value to consumers.

6 NEW SUBSECTION. 12A. *"Participating dealer"* means a dealer
7 who accepts the return of empty beverage containers from a
8 consumer.

9 Sec. 4. Section 455C.2, Code 2022, is amended to read as
10 follows:

11 **455C.2 Refund values.**

12 1. A refund value of ~~not less than~~ five cents shall be paid
13 by the consumer on each beverage container sold in this state
14 by a dealer for consumption off the premises. Upon return of
15 the empty beverage container upon which a refund value has
16 been paid to ~~the~~ a participating dealer or person operating
17 a redemption center and acceptance of the empty beverage
18 container by the participating dealer or person operating a
19 redemption center, the participating dealer or person operating
20 a redemption center shall return the amount of the refund
21 value to the consumer within a reasonable time not to exceed
22 ten days. A person who attempts to redeem two thousand or
23 more empty beverage containers in one transaction with a
24 participating dealer or a redemption center shall provide proof
25 of residency prior to receiving refund value.

26 2. In addition to the refund value provided in subsection
27 1 of ~~this section~~, ~~a dealer, or person operating a redemption~~
28 ~~center who redeems empty beverage containers or a dealer agent~~
29 ~~shall be reimbursed by the distributor required to accept~~
30 ~~the empty beverage containers under section 455C.3 shall~~
31 provide reimbursement in an amount which that is one cent per
32 container, except that the reimbursement amount shall be three
33 cents per container for empty beverage containers accepted by a
34 redemption center. A dealer, dealer agent, or person operating
35 a redemption center may compact empty metal beverage containers

1 with the approval of the distributor required to accept the
2 containers.

3 Sec. 5. Section 455C.3, subsections 1, 2, and 4, Code 2022,
4 are amended to read as follows:

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

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

30 4. A distributor shall accept from a dealer agent any empty
31 beverage container of the kind, size, and brand sold by the
32 distributor and ~~which~~ that was picked up by the dealer agent
33 from a participating dealer within the geographic territory
34 served by the distributor and the distributor shall pay the
35 dealer agent the refund value of the empty beverage container

1 and the reimbursement as provided in [section 455C.2](#).

2 Sec. 6. Section 455C.4, Code 2022, is amended to read as
3 follows:

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

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

10 2. A On and after July 1, 2023, a dealer may refuse to
11 accept and to pay the refund value of any empty beverage
12 container ~~if the place of business of the dealer and the kind~~
13 ~~and brand of empty beverage containers are included in an order~~
14 ~~of the department approving a redemption center under section~~
15 ~~455C.6.~~

16 3. ~~A dealer or a distributor may refuse to accept and to pay~~
17 ~~the refund value of an empty wine or alcoholic liquor container~~
18 ~~which is marked to indicate that it was sold by a state liquor~~
19 ~~store. The alcoholic beverages division shall not reimburse~~
20 ~~a dealer or a distributor the refund value on an empty wine or~~
21 ~~alcoholic liquor container which is marked to indicate that the~~
22 ~~container was sold by a state liquor store.~~

23 4. 3. A class "E" liquor control licensee may refuse to
24 accept and to pay the refund value on an empty alcoholic liquor
25 container from a participating dealer or a redemption center
26 or from a person acting on behalf of or who has received empty
27 alcoholic liquor containers from a participating dealer or a
28 redemption center.

29 5. 4. A manufacturer or distributor may refuse to accept
30 and to pay the refund value and reimbursement as provided in
31 section 455C.2 on any empty beverage container that was picked
32 up by a dealer agent ~~from a dealer~~ outside the geographic
33 territory served by the manufacturer or distributor.

34 Sec. 7. Section 455C.5, subsection 1, Code 2022, is amended
35 to read as follows:

1 1. a. Each beverage container sold or offered for sale in
2 this state by a dealer shall clearly indicate the refund value
3 of the container by embossing or by a stamp, label, or other
4 method securely affixed to the container, ~~the refund value of~~
5 ~~the container~~. The department shall specify, by rule, the
6 minimum size of the refund value indication on the beverage
7 containers.

8 b. On and after November 15, 2023, the department of revenue
9 shall require the registration of the universal product code
10 for each beverage container using a method determined by the
11 department of revenue.

12 Sec. 8. Section 455C.6, subsections 1, 2, and 5, Code 2022,
13 are amended to read as follows:

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

20 2. ~~An application for approval of a~~ A person operating a
21 redemption center shall file written notice of the operation
22 of the redemption center shall be filed with the department.
23 The application notice shall state the name and address of the
24 person responsible for the establishment and operation of the
25 redemption center, ~~the kind and brand names of the beverage~~
26 ~~containers which will be accepted at the redemption center,~~
27 and the names and addresses of the dealers to be served by
28 the redemption center. The application notice shall contain
29 such other information as the director may reasonably require.
30 However, on and after July 1, 2023, a redemption center does
31 not need to provide in its notice the names and addresses of
32 dealers to be served by the redemption center.

33 5. All ~~approved~~ redemption centers shall meet applicable
34 health standards.

35 Sec. 9. Section 455C.6, subsections 3 and 4, Code 2022, are

1 amended by striking the subsections.

2 Sec. 10. Section 455C.6, Code 2022, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 6. A mobile redemption system shall
5 not be considered to be in violation of any county or city
6 ordinance that would otherwise limit the operation of the
7 mobile redemption system as long as the mobile redemption
8 system operates in a location that is not zoned primarily for
9 residential purposes.

10 Sec. 11. Section 455C.12, subsections 2 and 3, Code 2022,
11 are 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, redemption center, or consumer is guilty
16 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, 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. 12. Section 455C.12, Code 2022, is amended by adding
32 the following new subsections:

33 NEW SUBSECTION. 6. A person who attempts to redeem beverage
34 containers obtained outside the state commits a serious
35 misdemeanor and is also subject to a civil penalty of five

1 thousand dollars per violation.

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

9 Sec. 13. 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. 14. 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. 15. 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 two thousand dollars for each day of such violation.

3 Sec. 16. Section 455C.13, Code 2022, is amended to read as
4 follows:

5 **455C.13 ~~Distributors'~~ Collection and disposal agreements**
6 **authorized.**

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

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

16 Sec. 17. Section 455C.16, Code 2022, is amended to read as
17 follows:

18 **455C.16 Beverage containers — disposal at sanitary landfill**
19 **prohibited.**

20 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
21 containers ~~by a dealer, distributor, or manufacturer, or~~
22 ~~person operating a redemption center, in a sanitary landfill,~~
23 ~~is prohibited. Beginning September 1, 1992, including the~~
24 final disposal of beverage containers that used to contain
25 alcoholic liquor as defined in section 123.3, subsection 5,
26 by a participating dealer, distributor, ~~or~~ manufacturer, or
27 ~~person operating a redemption center in a sanitary landfill,~~
28 is prohibited.

29 Sec. 18. NEW SECTION. **455C.18 Unclaimed refund value and**
30 **handling fees.**

31 Any amount of refund value or handling fees possessed by a
32 distributor after the distributor has made payments required
33 pursuant to this chapter shall be considered the property of
34 the distributor.

35 Sec. 19. REPEAL. Sections 455C.7 and 455C.10, Code 2022,

S.F. 2378

1 are repealed.

2 Sec. 20. EFFECTIVE DATE. The section of this Act amending

3 section 123.136 takes effect July 1, 2023.