SENATE FILE 2378
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2122)

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

_____ = New Language by the Senate

A BILL FOR

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

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

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

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

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

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

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

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

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

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

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

455C.2 Refund values.

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

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

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

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

1. A participating dealer shall not refuse to accept from a consumer any empty beverage container of the kind, size, and brand sold by the participating dealer, or refuse to pay to the consumer the refund value of a beverage container as provided under section 455C.2.

2. A distributor shall accept and pick up from a participating dealer served by the distributor or a redemption center ~~for a dealer served by the distributor~~ in the distributor's geographic territory at least weekly, or when the distributor delivers the beverage product if deliveries are less frequent than weekly, any empty beverage container of the kind, size, and brand sold by the distributor, and shall pay to the participating dealer or ~~person operating a~~ redemption center the refund value of a beverage container and the reimbursement as provided under section 455C.2 within one week following pickup of the containers or when the participating dealer or redemption center normally pays the distributor for the deposit on beverage products purchased from the distributor if less frequent than weekly. A distributor or employee or agent of a distributor is not in violation of this subsection if a redemption center is closed when the distributor attempts to make a regular delivery or a regular pickup of empty beverage containers. This subsection does not apply to a distributor selling alcoholic liquor to the alcoholic beverages division of the department of commerce.

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

and the reimbursement as provided in section 455C.2.

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

455C.4 Refusal to accept containers.

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

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

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

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

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

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

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

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

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

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

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

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

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

amended by striking the subsections.

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

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

Sec. 11. Section 455C.12, subsections 2 and 3, Code 2022, are amended to read as follows:

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

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

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

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

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

Sec. 12. Section 455C.12, Code 2022, is amended by adding the following new subsections:

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

thousand dollars per violation.

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

Sec. 13. NEW SECTION. **455C.12A Administrative enforcement — compliance orders.**

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

Sec. 14. NEW SECTION. **455C.12B Judicial review.**

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

Sec. 15. NEW SECTION. **455C.12C Civil actions for compliance — penalties.**

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

2. Any person who violates any order issued pursuant to

section 455C.12A shall be subject to a civil penalty not to exceed two thousand dollars for each day of such violation.

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

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

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

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

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

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

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

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

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

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

are repealed.

Sec. 20. EFFECTIVE DATE. The section of this Act amending section 123.136 takes effect July 1, 2023.