

(2) A person may build or expand an anaerobic lagoon closer to a residence not owned by the owner of the feeding operation or to a public use area than is otherwise permitted by subparagraph one (1) of this paragraph, if the affected landowners enter into a written agreement with the anaerobic lagoon owner to waive the separation distances under such terms as the parties may negotiate. The written agreement shall become effective only upon recording in the office of the recorder of deeds of the county in which the residence is located.

Sec. 2. This Act, being deemed of immediate importance, shall take effect from and after its publication in the Carroll Daily Times-Herald, a newspaper published in Carroll, Iowa, and in the Allamakee Journal, a newspaper published in Lansing, Iowa.

Approved June 10, 1979

I hereby certify that the foregoing Act, Senate File 277, was published in the Carroll Daily Times-Herald, Carroll, Iowa on June 13, 1979, and in the Allamakee Journal, Lansing, Iowa on June 20, 1979.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 113 BEVERAGE CONTAINERS

S. F. 388

AN ACT relating to the importation, sale and redemption of certain beverage containers and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section four hundred fifty-five C point one (455C.1), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. "Nonrefillable beverage container" means a beverage container not intended to be refilled for sale by a manufacturer.

Sec. 2. Section four hundred fifty-five C point three (455C.3), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. A distributor shall not be required to pay to a manufacturer a deposit or refund value on a nonrefillable beverage container.

Sec. 3. Section four hundred fifty-five C point five (455C.5), subsection two (2), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

2. A person, except a distributor, shall not import into this state after July 1, 1979 a beverage container which does not have securely affixed to the container the refund value indication. The provisions of this subsection do not apply if:

a. For beverage containers containing alcoholic liquor as defined in section one hundred twenty-three point three (123.3), subsection eight (8) of

the Code, the total capacity of the containers is not more than one quart or, in the case of alcoholic liquor personally obtained outside the United States, one gallon.

b. For beverage containers containing beer as defined in section one hundred twenty-three point three (123.3), subsection nine (9) of the Code, the total capacity of the containers is not more than two hundred eighty-eight fluid ounces.

c. For all other beverage containers, the total capacity of the containers is not more than five hundred seventy-six fluid ounces.

3. The provisions of subsections one (1) and two (2) of this section do not apply to a refillable glass beverage container which has a brand name permanently marked on it and which has a refund value of not less than five cents, to any other refillable beverage container which has a refund value of not less than five cents and which is exempted by the director under rules adopted by the commission, or to a beverage container sold aboard a commercial airliner or passenger train for consumption on the premises.

Sec. 4. Section four hundred fifty-five C point twelve (455C.12), Code 1979, is amended to read as follows:

455C.12 PENALTY PENALTIES.

1. Any person violating the provisions of sections 455C.2, 455C.3, 455C.5 and 455C.8, or a rule adopted under this chapter shall be guilty of a simple misdemeanor.

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 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 dealer, redemption center or consumer.

b. Manufactures, sells, possesses or applies a false or counterfeit label or indication which 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.

4. As used in this section, a false or counterfeit label or indication means a label or indication purporting to show a valid refund value which has not been initially applied as authorized by a distributor.

5. Subsection two (2) and subsection three (3), paragraph a of this section have no application to empty beverage containers which are intended to be refillable and are in a standard of condition except for sanitization to be refillable by the manufacturer.

Sec. 5. Chapter four hundred fifty-five C (455C), Code 1979, is amended by adding the following new section:

NEW SECTION. DISTRIBUTORS' AGREEMENTS AUTHORIZED. A distributor 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.

Sec. 6. Chapter four hundred fifty-five C (455C), Code 1979, is amended by adding the following new section:

NEW SECTION. REDEMPTION OF REFUSED NONREFILLABLE METAL BEVERAGE CONTAINERS.

1. If the refund value indication required under section four hundred fifty-five C point five (455C.5) of the Code on an empty nonrefillable metal beverage container is readable but the redemption of the container is lawfully refused by a dealer or person operating a redemption center under other sections of this chapter or rules adopted pursuant to these sections, the container shall be accepted and the refund value paid to a consumer as provided in this section. Each beer distributor selling nonrefillable metal beverage containers in this state shall provide individually or collectively by contract or agreement with a dealer, person operating a redemption center or another person, at least one facility in the county seat of each county where refused empty nonrefillable metal beverage containers having a readable refund value indication as required by this chapter are accepted and redeemed. In cities having a population of twenty-five thousand or more, the number of the facilities provided shall be one for each twenty-five thousand population or a fractional part of that population.

2. A beer distributor violating this section is guilty of a simple misdemeanor.

Sec. 7. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred sixty-two (1162), section fourteen (14), subsection two (2) is amended to read as follows:

2. This Act shall be effective July 1, 1979 for all beverage containers sold in this state except as provided in subsection one (1) of this section. However, from July 1, 1979 through July 31, 1979, this Act shall not apply to beverage containers sold in this state by dealers or distributors excluding the Iowa beer and liquor control department, if the beverage containers do not have refund value indications embossed, stamped or otherwise attached to them.

Sec. 8. Section six (6) of this Act is effective July 1, 1980.

Approved June 1, 1979