



KIM REYNOLDS
GOVERNOR

OFFICE OF THE GOVERNOR

ADAM GREGG
LT GOVERNOR

June 17, 2022

The Honorable Paul Pate
Secretary of State of Iowa
State Capitol
Des Moines, Iowa 50319

Dear Mr. Secretary,

I hereby transmit:

Senate File 2378, an act relating to beverage containers control provisions, including handling fees, refund value, applicability to certain beverages, and acceptance of beverage containers, providing penalties, and including effective date provisions.

The above Senate File is hereby approved on this date.

Sincerely,

A handwritten signature in black ink that reads "Kim Reynolds".

Kim Reynolds
Governor of Iowa

cc: Secretary of the Senate
Clerk of the House



Senate File 2378

AN ACT

RELATING TO BEVERAGE CONTAINERS CONTROL PROVISIONS, INCLUDING HANDLING FEES, REFUND VALUE, APPLICABILITY TO CERTAIN BEVERAGES, AND ACCEPTANCE OF BEVERAGE CONTAINERS, PROVIDING PENALTIES, AND INCLUDING EFFECTIVE DATE PROVISIONS.

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

Section 1. Section 22.7, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 75. Identifying information submitted to the department of revenue from a distributor pursuant to section 455C.2, subsection 2, paragraph "b". However, this subsection shall not be construed to prohibit the dissemination of aggregated information that does not identify a specific distributor.

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 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.

2. a. 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 for containers accepted from a dealer agent and three cents per container for containers accepted from a participating dealer or 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.

b. A distributor who pays a handling fee for beverage

containers that used to contain beer, including high alcoholic content beer, may claim a refund of the barrel tax established in section 123.136 paid by the distributor in the amount of one cent for each such beverage container accepted. The department of revenue shall prescribe forms for a distributor to use to claim a refund under this paragraph. Identifying information collected by the department of revenue pursuant to this paragraph that can be used to identify a specific distributor shall be considered confidential information pursuant to section 22.7, subsection 75.

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 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 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 dealer, ~~a person operating~~ a 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. 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~~ any of the following apply:

(1) The dealer holds a food establishment license under chapter 137F to prepare or serve food, has a certified food protection manager as required by the 2017 United States food and drug administration food code and supplement, and sells time/temperature control for safety food as defined in section 137F.2.

(2) The dealer has entered an agreement with an approved redemption center for the operation of a mobile redemption system and all of the following apply:

(a) The dealer provides adequate space, utilities, and internet connection to operate the mobile redemption system.

(b) The agreement does not require additional payment to the dealer or the mobile redemption system.

(3) The dealer's place of business is in a county with a population of more than thirty thousand and within ten miles of an approved redemption center or if the dealer's place of business is in a county with a population of thirty thousand or fewer and within fifteen miles of an approved redemption center.

b. A dealer who refuses to accept and to pay the refund value on any empty beverage container pursuant to this

subsection shall conspicuously display on the front door of the dealer's place of business a notice that the dealer does not accept empty beverage containers. The notice shall also provide the location of the nearest approved redemption center to the dealer's place of business. After the department has made available an electronic method for locating approved redemption centers pursuant to paragraph "c", a dealer may direct consumers to such electronic method instead of providing the location of the nearest approved redemption center on the notice.

c. The department shall make available to the public an electronic method of locating approved redemption centers.

d. A dealer who provides space for a mobile redemption system pursuant to paragraph "a", subparagraph (2), shall not be considered to be in violation of any county or city ordinance that would otherwise limit the ability of the dealer to provide such space as long as the mobile redemption system operates in a location that is not zoned primarily for residential purposes.

~~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. The department of revenue shall require the registration of the universal product code for each beverage container using a method of registration determined by the department of revenue.

Sec. 8. Section 455C.6, subsection 1, Code 2022, is 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. A participating dealer may act as a redemption center for purposes of this chapter.

Sec. 9. 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. 10. Section 455C.12, Code 2022, is amended by adding the following new subsections:

NEW SUBSECTION. 6. A person who knowingly attempts to redeem a beverage container that is not properly marked as required by section 455C.5, subsection 1, shall be subject to a civil penalty not to exceed ten dollars per improperly marked beverage container, but not to exceed five thousand dollars total per attempted transaction.

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 bottle bill fund established in section 455C.12D.

Sec. 11. 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. 12. 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. 13. 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. 14. NEW SECTION. 455C.12D Bottle bill fund.

A bottle bill fund is established in the state treasury under the control of the department. The fund shall consist of moneys deposited in the fund pursuant to section 455C.12, subsection 7, and any other moneys appropriated to or deposited in the fund. Moneys in the fund are appropriated to the department for purposes of administering and enforcing this chapter, including reimbursing the attorney general for costs incurred by the attorney general in enforcing this chapter. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditure for the purposes designated. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 15. 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. 16. 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. 17. 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. 18. LEGISLATIVE FISCAL COMMITTEE REVIEW.

1. The legislative fiscal committee established in section 2.45 shall hold a meeting during the legislative interim immediately preceding the 2026 regular legislative session. During the meeting, the committee shall review the enforcement of chapter 455C by the department of natural resources, including the collection of civil penalties, the report submitted by the attorney general pursuant to subsection 2, whether and how many redemption centers have been approved by the department, the adequacy of the reimbursement amount under section 455C.2, and any other information the committee deems important. The committee shall submit a report of its findings and recommendations to the general assembly no later than January 31, 2026.

2. The attorney general shall submit a report to the general assembly prior to the legislative fiscal committee's meeting under subsection 1. The report shall detail any legal proceedings arising under chapter 455C since January 1, 2023.

Sec. 19. REFUSAL TO ACCEPT BEVERAGE CONTAINERS.

1. A dealer may refuse to accept beverage containers before January 1, 2023, if any of the following apply:

a. The dealer has entered an agreement with an approved redemption center for the operation of a mobile redemption system and all of the following apply:

(1) The dealer provides adequate space, utilities, and internet connection to operate the mobile redemption system.

(2) The agreement does not require additional payment to the dealer or the mobile redemption system.

b. The dealer's place of business is in a county with a population of more than thirty thousand and within ten miles of an approved redemption center or if the dealer's place of business is in a county with a population of thirty thousand or fewer and within fifteen miles of an approved redemption center.


2. A dealer who refuses to accept beverage containers pursuant to this section shall conspicuously display on the front door of the dealer's place of business a notice that the dealer does not accept empty beverage containers. The notice shall also provide the location of the nearest approved redemption center to the dealer's place of business.

Sec. 20. EFFECTIVE DATE.


1. Except as provided in subsections 2 or 3, this Act takes effect January 1, 2023.

2. The section of this Act amending section 455C.5, subsection 1, takes effect November 15, 2023.

3. The section of this Act allowing a dealer to refuse to accept beverage containers before January 1, 2023, being deemed of immediate importance, takes effect upon enactment.




JAKE CHAPMAN
President of the Senate



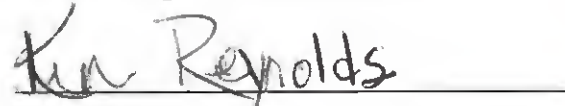
PAT GRASSLEY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2378, Eighty-ninth General Assembly.



W. CHARLES SMITHSON
Secretary of the Senate

Approved July 17th, 2022



KIM REYNOLDS
Governor