

Senate File 2122

1 Amend Senate File 2122 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

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

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

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

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

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

1 distributor or manufacturer.

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

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

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

9 **455C.2 Refund values.**

10 1. A refund value of ~~not less than~~ five cents shall be paid
11 by the consumer on each beverage container sold in this state
12 by a dealer for consumption off the premises. Upon return of
13 the empty beverage container upon which a refund value has
14 been paid to ~~the~~ a participating dealer or person operating
15 a redemption center and acceptance of the empty beverage
16 container by the participating dealer or person operating a
17 redemption center, the participating dealer or person operating
18 a redemption center shall return the amount of the refund value
19 to the consumer within a reasonable time.

20 2. In addition to the refund value provided in subsection
21 ~~1 of this section, a dealer, or person operating a redemption~~
22 ~~center who redeems empty beverage containers or a dealer agent~~
23 ~~shall be reimbursed by~~ the distributor required to accept
24 the empty beverage containers under section 455C.3 shall
25 provide reimbursement in an amount which that is one cent per
26 container, except that the reimbursement amount shall be three
27 cents per container for empty beverage containers accepted by a
28 redemption center. A dealer, dealer agent, or person operating
29 a redemption center may compact empty metal beverage containers
30 with the approval of the distributor required to accept the
31 containers.

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

34 1. A participating dealer shall not refuse to accept from a
35 consumer any empty beverage container of the kind, size, and

1 brand sold by the participating dealer, or refuse to pay to the
2 consumer the refund value of a beverage container as provided
3 under section 455C.2.

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

23 4. A distributor shall accept from a dealer agent any empty
24 beverage container of the kind, size, and brand sold by the
25 distributor and ~~which~~ that was picked up by the dealer agent
26 from a participating dealer within the geographic territory
27 served by the distributor and the distributor shall pay the
28 dealer agent the refund value of the empty beverage container
29 and the reimbursement as provided in section 455C.2.

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

32 **455C.4 Refusal to accept containers.**

33 1. Except as provided in section 455C.5, subsection 3,
34 a participating dealer, ~~a person operating a~~ or redemption
35 center, ~~a distributor or a manufacturer~~ may refuse to accept

1 any empty beverage container ~~which~~ that does not have stated on
2 it a refund value as provided under section 455C.2.

3 2. ~~A~~ On and after July 1, 2023, a dealer may refuse to
4 accept and to pay the refund value of any empty beverage
5 container if the ~~place of business of the dealer and the kind~~
6 ~~and brand of empty beverage containers are included in an order~~
7 ~~of the department approving a redemption center under section~~
8 455C.6 dealer has provided notice to the department.

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

16 4. 3. A class "E" liquor control licensee may refuse to
17 accept and to pay the refund value on an empty alcoholic liquor
18 container from a participating dealer or a redemption center
19 or from a person acting on behalf of or who has received empty
20 alcoholic liquor containers from a participating dealer or a
21 redemption center.

22 ~~5.~~ 4. A manufacturer or distributor may refuse to accept
23 and to pay the refund value and reimbursement as provided in
24 section 455C.2 on any empty beverage container that was picked
25 up by a dealer agent ~~from a dealer~~ outside the geographic
26 territory served by the manufacturer or distributor.

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

29 1. Each beverage container sold or offered for sale in
30 this state by a dealer shall clearly indicate the refund value
31 of the container by embossing or by a stamp, label, or other
32 method securely affixed to the container, ~~the refund value of~~
33 ~~the container.~~ The department shall specify, by rule, the
34 minimum size of the refund value indication on the beverage
35 containers and require registration of the universal product

1 code for each beverage container in a format determined by the
2 department.

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

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

11 2. ~~An application for approval of a~~ A person operating a
12 redemption center shall file written notice of the operation
13 of the redemption center shall be filed with the department.
14 The ~~application~~ notice shall state the name and address of the
15 person responsible for the establishment and operation of the
16 redemption center, ~~the kind and brand names of the beverage~~
17 ~~containers which will be accepted at the redemption center,~~
18 and the names and addresses of the dealers to be served by the
19 redemption center. The ~~application~~ notice shall contain such
20 other information as the director may reasonably require.

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

23 Sec. 9. Section 455C.6, subsections 3 and 4, Code 2022, are
24 amended by striking the subsections.

25 Sec. 10. Section 455C.12, subsections 2 and 3, Code 2022,
26 are amended to read as follows:

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

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

34 a. Collects or attempts to collect the refund value on the
35 container a second time, with the knowledge that the refund

1 value has once been paid by the distributor to a participating
2 dealer, redemption center, or consumer.

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

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

11 Sec. 11. Section 455C.12, Code 2022, is amended by adding
12 the following new subsection:

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

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

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

30 Sec. 13. NEW SECTION. 455C.12B **Judicial review.**

31 Judicial review of any order or other action of the
32 commission or director may be sought in accordance with the
33 terms of chapter 17A. Notwithstanding the terms of chapter
34 17A, petitions for judicial review may be filed in the district
35 court of the county in which the alleged offense was committed.

1 Sec. 14. NEW SECTION. 455C.12C Civil actions for compliance
2 — penalties.

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

10 2. Any person who violates any order issued pursuant to
11 section 455C.12A shall be subject to a civil penalty not to
12 exceed two thousand dollars for each day of such violation.

13 Sec. 15. Section 455C.13, Code 2022, is amended to read as
14 follows:

15 **455C.13 ~~Distributors'~~ Collection and disposal agreements**
16 **authorized.**

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

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

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

28 **455C.16 Beverage containers — disposal at sanitary landfill**
29 **prohibited.**

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

1 by a participating dealer, distributor, ~~or~~ manufacturer, or
2 ~~person operating a~~ redemption center in a sanitary landfill,
3 is prohibited.

4 Sec. 17. REPEAL. Sections 455C.7, 455C.10, and 455C.14,
5 Code 2022, are repealed.

6 Sec. 18. EFFECTIVE DATE. The section of this Act amending
7 section 123.136 takes effect July 1, 2023.>

8 2. Title page, by striking lines 1 through 4 and inserting
9 <An Act relating to beverages, including the barrel tax and the
10 acceptance of beverage containers for refund value, providing
11 penalties, and including effective date provisions.>

PROPOSED COMMITTEE AMENDMENT