

FEB 5 2007

ENVIRONMENTAL PROTECTION

HOUSE FILE 172

BY SHOULTZ, HATCH, SMITH, FOEGE,
WINCKLER, WITT, REYNOLDS, BUKTA,
JOCHUM, MASCHER, FALLON, LENSING,
FALCK, OSTERHAUS, TREMMEL, RICHARDSON,
CONNORS, KREIMAN, PETERSEN, FORD,
GREIMANN, LARKIN, SENG, D. TAYLOR,
MERTZ, KUHN, and DOTZLER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to beverage container control laws.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 172

1 Section 1. Section 455C.1, subsections 1, 2, 9, and 13,
2 Code 2001, are amended to read as follows:

3 1. "Beverage" means wine as defined in section 123.3,
4 subsection 37, alcoholic liquor as defined in section 123.3,
5 subsection 5, beer as defined in section 123.3, subsection 7,
6 ~~mineral water, soda water and similar carbonated soft drinks~~
7 and any nonalcoholic carbonated and noncarbonated drinks
8 excluding milk and dairy-derived products in liquid form and
9 intended for human consumption. "Beverage" shall not include
10 any of the following:

11 a. A liquid which is any of the following:

12 (1) A syrup.

13 (2) In a concentrated form.

14 (3) Typically added as a minor flavoring ingredient in
15 food or drink, such as extracts, cooking additives, sauces, or
16 condiments.

17 b. A liquid which is ingested in very small quantities and
18 which is consumed for medicinal purposes only.

19 c. A liquid which is designed and consumed only as a
20 nutritional supplement and not as a beverage.

21 d. Products frozen at the time of sale to the consumer,
22 or, in the case of institutional users such as hospitals and
23 nursing homes, at the time of sale to such users.

24 e. Products designed to be consumed in a frozen state.

25 f. Instant drink powders.

26 g. Seafood, meat, or vegetable broths or soups but not
27 juices.

28 h. Farm-produced apple cider, which has not been heated,
29 pasteurized, or otherwise processed.

30 2. "Beverage container" means any ~~sealed glass, plastic,~~
31 ~~or metal~~ bottle, can, jar, or carton other container made of
32 glass, metal, or plastic containing a beverage which has been
33 sealed by a manufacturer.

34 9. "Distributor" means any person who engages in the sale
35 or distribution of beverages in beverage containers to a

1 dealer in this state, including any manufacturer who engages
2 in such sales. "Distributor" also means any dealer that
3 manufactures or contracts for the manufacture of its own
4 beverage for exclusive sale by that dealer.

5 13. "Redemption center" means a-facility both approved and
6 unapproved facilities at which consumers may return empty
7 beverage containers and receive payment for the refund value
8 of the empty beverage containers.

9 Sec. 2. Section 455C.1, Code 2001, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 11A. "Milk and dairy-derived products"
12 means whole milk, skim milk, low-fat milk, cream, or any
13 combination thereof. "Milk and dairy-derived products" also
14 means products of which the single largest ingredient is whole
15 milk, milk fat, or milk with varying percentages of milk fat.

16 Sec. 3. Section 455C.2, subsection 2, Code 2001, is
17 amended to read as follows:

18 2. In addition to the refund value provided in subsection
19 1 of this section, a dealer, or person operating a redemption
20 center who redeems empty beverage containers or a dealer agent
21 shall be reimbursed by the distributor required to accept the
22 empty beverage containers an amount which is one-cent two
23 cents per container. A dealer, dealer agent, or person
24 operating a redemption center may compact empty metal beverage
25 containers with the approval of the distributor required to
26 accept the containers.

27 Sec. 4. Section 455C.3, subsection 2, Code 2001, is
28 amended to read as follows:

29 2. A distributor shall accept and pick up from a dealer
30 served by the distributor or a redemption center for-a-dealer
31 within the geographic territory served by the distributor at
32 ~~least-weekly, or when the distributor delivers the beverage~~
33 ~~product if deliveries are less frequent than weekly,~~ any empty
34 beverage container of the kind, size, and brand sold by the
35 distributor and. A distributor shall accept and pick up

1 beverage containers from a dealer or redemption center within
2 seven days of the previous pickup from the same dealer or
3 redemption center. A distributor shall pay to the dealer or
4 person operating a redemption center the refund value of a
5 beverage container and the reimbursement as provided under
6 section 455C.2 within one week following pickup of the
7 containers or when the dealer or redemption center normally
8 pays the distributor for the deposit on beverage products
9 purchased from the distributor if less frequent than weekly.
10 A distributor or employee or agent of a distributor is not in
11 violation of this subsection if a redemption center is closed
12 when the distributor attempts to make a regular delivery or a
13 regular pickup of empty beverage containers. This subsection
14 does not apply to a distributor selling alcoholic liquor to
15 the alcoholic beverages division of the department of
16 commerce.

17 Sec. 5. NEW SECTION. 455C.3A DISTRIBUTOR SEPARATE
18 ACCOUNTS.

19 1. A distributor subject to the provisions of this chapter
20 shall open and maintain a separate account to be known as the
21 Iowa refund value account. The account shall be kept separate
22 from all other accounts and revenues of the distributor and
23 shall be maintained by the distributor on behalf of the
24 consumers purchasing a beverage container from a dealer and on
25 behalf of the state. Moneys in the account shall not be
26 considered income of the distributor and shall be used only to
27 pay refund values as required in section 455C.3, subsections 2
28 and 4. Any interest earned on the account may be removed from
29 the account and may be retained by the distributor.

30 2. A distributor shall deposit five cents in the
31 distributor's Iowa refund value account for every beverage
32 container sold to a dealer in this state. The deposit shall
33 be made in a prompt manner following a sale and delivery of a
34 beverage container to a dealer.

35 3. At the end of each month, the distributor shall

1 determine what amount, if any, is equal to the excess of the
2 sum of the income earned on the account during that month and
3 the total amount deposited in the account during that month
4 and the previous two months. Any excess shall be deemed to
5 constitute abandoned refund value. By the seventh day of the
6 following month, a distributor shall remit any excess to the
7 department for deposit in the Robert D. Ray beautiful land
8 fund established in section 455C.3B.

9 Sec. 6. NEW SECTION. 455C.3B ROBERT D. RAY BEAUTIFUL
10 LAND FUND.

11 1. The Robert D. Ray beautiful land fund is established in
12 the office of the treasurer of state under the control of the
13 department. The fund shall consist of any moneys appropriated
14 by the general assembly for that purpose and any other moneys
15 available to and obtained or accepted by the department for
16 placement in the fund. The fund shall also consist of moneys
17 received from distributors for deposit pursuant to section
18 455C.3A.

19 2. Moneys in the fund are appropriated annually as
20 follows:

21 a. Two hundred fifty thousand dollars to the state
22 department of transportation to be used for purposes of the
23 adopt-a-highway program administered by the department.

24 b. Three hundred fifty thousand dollars to the state board
25 of regents for the Iowa waste reduction center for the safe
26 and economic management of solid waste and hazardous
27 substances established in section 268.4 for purposes of the
28 Iowa waste exchange.

29 c. The remaining moneys to the department of natural
30 resources to be used as follows:

31 (1) One-third of the remaining moneys shall be used to
32 provide financial assistance to cities, counties, or private
33 organizations for purposes of assisting adopt-a-place programs
34 designed to address litter collection and prevention.

35 (2) One-sixth of the remaining moneys shall be used to

1 provide grants to dealers, dealer agents, and persons
2 operating a redemption center for purposes of increasing the
3 effectiveness, efficiency, and convenience of redemption.

4 (3) One-sixth of the remaining moneys shall be used to
5 provide grants to cities, counties, or private organizations
6 for purposes of awareness, informational, or educational
7 programs designed to address litter and illegal dumping
8 issues.

9 (4) One-sixth of the remaining moneys shall be used to
10 provide grants to cities, counties, or private organizations
11 for purposes of awareness, informational, or educational
12 programs designed to address waste reduction, waste reuse, and
13 recycling issues.

14 (5) One-sixth of the remaining moneys shall be used to
15 provide no-interest loans to cities, counties, or public or
16 private organizations for purposes of developing end uses and
17 markets for recyclables in the state.

18 3. Notwithstanding section 8.33, all moneys in the Robert
19 D. Ray beautiful land fund which remain unexpended or
20 unobligated at the end of each fiscal year shall not revert
21 but shall remain available for expenditure in subsequent
22 fiscal years.

23 Sec. 7. Section 455C.5, subsection 1, Code 2001, is
24 amended to read as follows:

25 1. Each beverage container sold or offered for sale in
26 this state by a dealer shall clearly indicate by embossing or
27 by a stamp, label or other method securely affixed to the
28 container, the refund value of the container. The department
29 shall specify, by rule, the minimum size of the refund value
30 indication on the beverage containers. The embossing, stamp,
31 label, or other method used to identify containers with a
32 refund value shall be clear, conspicuous, and in significant
33 color contrast to the rest of the container.

34 Sec. 8. NEW SECTION. 455C.17 RECYCLED CONTENT IN
35 BEVERAGE CONTAINERS.

1 A beverage container sold or offered for sale in this state
2 shall have a minimum postconsumer recycled content of twenty-
3 five percent by weight.

4 EXPLANATION

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6 This bill expands the list of beverage containers which are
7 covered under the beverage container control laws in Code
8 chapter 455C to include any nonalcoholic carbonated and
9 noncarbonated drinks excluding milk and dairy-derived
10 products. The bill excludes from the expanded list any liquid
11 which is a syrup, in a concentrated form, or is typically
12 added as a minor flavoring ingredient in food or drink; any
13 liquid which is ingested in very small quantities and which is
14 consumed for medicinal purposes only; any liquid which is
15 designed and consumed only as a nutritional supplement and not
16 as a beverage; products frozen at the time of sale to the
17 consumer, or, in the case of institutional users such as
18 hospitals and nursing homes, at the time of sale to such
19 users; products designed to be consumed in a frozen state;
20 instant drink powders; seafood, meat, or vegetable broths or
21 soups but not juices; and farm-produced apple cider, which has
22 not been heated, pasteurized, or otherwise processed.

23 The bill amends the definition of "distributor" to include
24 any dealer that manufactures or contracts for the manufacture
25 of its own beverage for exclusive sale by that dealer.

26 The bill increases the reimbursement amount received by a
27 dealer or person operating a redemption center who redeems
28 empty beverage containers from 1 cent per container to 2 cents
29 per container. The reimbursement amount is paid by the
30 distributor who collects the beverage containers from the
31 dealer or person operating a redemption center.

32 The bill provides that a distributor shall accept and pick
33 up from a dealer served by the distributor or a redemption
34 center within the geographic territory served by the
35 distributor any empty beverage container of the kind, size,

1 and brand sold by the distributor within seven days of the
2 previous pickup from the same dealer or redemption center.

3 The bill provides that a distributor shall open and
4 maintain a separate account to be known as the Iowa refund
5 value account. The bill provides that the account shall be
6 kept separate from all other accounts and revenues of the
7 distributor and shall be maintained by the distributor on
8 behalf of the consumers purchasing a beverage container from a
9 dealer and on behalf of the state. The bill provides that
10 moneys in the account shall be used only to pay refund values.
11 The bill provides that a distributor shall deposit 5 cents in
12 the distributor's account for every beverage container sold to
13 a dealer in this state.

14 The bill provides that at the end of each month, the
15 distributor shall determine what amount, if any, is equal to
16 the excess of the sum of the income earned on the account
17 during that month and the total amount deposited in the
18 account during that month and the previous two months. The
19 bill provides that any excess shall be deemed to constitute
20 abandoned refund value and shall be remitted to the department
21 of natural resources for deposit in the Robert D. Ray
22 beautiful land fund which is established in the bill.

23 The bill sets out the amounts and purposes for which moneys
24 in the fund are appropriated annually. The bill provides that
25 \$250,000 of the fund is appropriated to the state department
26 of transportation for purposes of the adopt-a-highway program,
27 and \$350,000 is appropriated to the state board of regents for
28 the Iowa waste reduction center. The bill provides that the
29 remaining moneys are appropriated to the department of natural
30 resources to be used as follows:

31 1. One-third to provide financial assistance for purposes
32 of assisting adopt-a-place programs designed to address litter
33 collection and prevention.

34 2. One-sixth to provide grants to dealers, dealer agents,
35 and persons operating a redemption center for purposes of

1 increasing the effectiveness, efficiency, and convenience of
2 redemption.

3 3. One-sixth to provide grants for purposes of awareness,
4 informational, or educational programs designed to address
5 litter and illegal dumping issues.

6 4. One-sixth to provide grants for purposes of awareness,
7 informational, or educational programs designed to address
8 waste reduction, waste reuse, and recycling issues.

9 5. One-sixth to provide no-interest loans for purposes of
10 developing end uses and markets for recyclables in the state.

11 The bill provides that the indication by embossing or by a
12 stamp, label, or other method used to identify containers with
13 a refund value shall be clear, conspicuous, and in significant
14 color contrast to the rest of the container.

15 The bill provides that a beverage container sold or offered
16 for sale in this state shall have a minimum postconsumer
17 recycled content of 25 percent by weight.

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HOUSE FILE 172
FISCAL NOTE

A fiscal note for **House File 172** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

SUMMARY

House File 172 increases the types of beverage containers requiring a five-cent deposit to include nonalcoholic carbonated and noncarbonated drinks with the exception of milk and dairy-delivered products. The Bill increases the handling fee from one cent to two cents per container. The Bill specifies distributors will have the refund amount identified on each container and that a separate Iowa Refund Value Account will be established. Any excess funds in the Account due to unredeemed deposits will be forwarded to the Department of Natural Resources for the establishment of the Robert D. Ray Beautiful Land Fund. The Bill specifies annual appropriations from the Fund for various projects.

ASSUMPTIONS

1. The estimated number of beverage containers redeemed annually is 1.6 billion and approximately 175 million containers are unredeemed annually.
2. The proposal will require the Waste Management Division to add 3.75 FTE positions, costing \$161,000 in FY 2002 for salaries and benefits. For FY 2003, the cost to the Division will be \$146,000 for 3.50 FTE positions. For FY 2004 and subsequent years, salary and benefits for 3.10 FTE positions will cost \$130,000 annually.

FISCAL IMPACT

The estimated fiscal impact of House File 172 is an increase of \$8.8 million to the Robert D. Ray Beautiful Land Fund per year. Programs receiving funding from this Fund include \$250,000 to the Department of Transportation and \$350,000 to the Board of Regents. The Department of Natural Resources would receive approximately \$8.2 million from the Fund each year to award grants for various programs. The Department of Natural Resources would have an increase in General Fund expenditures of \$161,000 and 3.75 FTE positions for FY 2002, an increase of \$146,000 and 3.50 FTE positions for FY 2003, and an increase of \$130,000 and 3.10 FTE positions for subsequent years.

SOURCE

Department of Natural Resources

(LSB 1846hh, DFK)