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NAT. RES. & ENVIRONMENT

SENATE FILE 107

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Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to recycling by providing for the acceptance of  
2 empty beverage containers by dealers of beverages, increasing  
3 the reimbursement amount paid by a distributor for empty  
4 beverage containers, providing a property tax exemption for  
5 glass recyclers, and providing civil penalties.

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

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SF 107  
NAT. RES. & ENVIRONMENT

1 Section 1. Section 427.1, subsection 19, unnumbered  
2 paragraph 8, Code 2005, is amended to read as follows:

3 For the purposes of this subsection, "pollution-control  
4 property" means personal property or improvements to real  
5 property, or any portion thereof, used primarily to control or  
6 abate pollution of any air or water of this state or used  
7 primarily to enhance the quality of any air or water of this  
8 state and "recycling property" means personal property or  
9 improvements to real property or any portion of the property,  
10 used primarily in the manufacturing process and resulting  
11 directly in the conversion of waste plastic, wastepaper  
12 products, waste paperboard, ~~or waste wood products,~~ or waste  
13 glass into new raw materials or products composed primarily of  
14 recycled material. In the event such property shall also  
15 serve other purposes or uses of productive benefit to the  
16 owner of the property, only such portion of the assessed  
17 valuation thereof as may reasonably be calculated to be  
18 necessary for and devoted to the control or abatement of  
19 pollution, to the enhancement of the quality of the air or  
20 water of this state, or for recycling shall be exempt from  
21 taxation under this subsection.

22 Sec. 2. Section 455C.2, subsection 2, Code 2005, is  
23 amended to read as follows:

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

33 Sec. 3. Section 455C.4, subsection 2, Code 2005, is  
34 amended by striking the subsection.

35 Sec. 4. Section 455C.7, Code 2005, is amended to read as

1 follows:

2 455C.7 UNAPPROVED REDEMPTION CENTERS.

3 Any person may establish a redemption center ~~which has not~~  
4 ~~been approved by the department,~~ at which a consumer may  
5 return empty beverage containers and receive payment of the  
6 refund value of the beverage containers. The establishment of  
7 ~~an unapproved~~ a redemption center shall not relieve any dealer  
8 from the responsibility of redeeming any empty beverage  
9 containers of the kind and brand sold by the dealer.

10 Sec. 5. Section 455C.12, Code 2005, is amended by adding  
11 the following new subsection:

12 NEW SUBSECTION. 6. The state shall be precluded from  
13 bringing a criminal action against a person under this chapter  
14 if the department has initiated a civil enforcement proceeding  
15 against the person pursuant to section 455C.11.

16 Sec. 6. NEW SECTION. 455C.11 SCHEDULE OF FINES --  
17 VIOLATIONS.

18 1. The commission shall establish, by rule, a schedule or  
19 range of civil penalties which may be administratively  
20 assessed. The schedule shall provide procedures and criteria  
21 for the administrative assessment of penalties of not more  
22 than ten thousand dollars for violations of this chapter or  
23 rules, permits, or orders adopted or issued under this  
24 chapter. In adopting a schedule or range of penalties and in  
25 proposing or assessing a penalty, the commission and director  
26 shall consider among other relevant factors the following:

27 a. The costs saved or likely to be saved by noncompliance  
28 by the violator.

29 b. The gravity of the violation.

30 c. The degree of culpability of the violator.

31 d. The maximum penalty authorized for that violation under  
32 this chapter.

33 Penalties may be administratively assessed only after an  
34 opportunity for a contested case hearing which may be combined  
35 with a hearing on the merits of the alleged violation.

1 Violations not fitting within the schedule, or violations  
2 which the commission determines should be referred to the  
3 attorney general for legal action, shall not be governed by  
4 the schedule established under this subsection.

5 2. When the commission establishes a schedule for  
6 violations, the commission shall provide, by rule, a procedure  
7 for the screening of alleged violations to determine which  
8 cases may be appropriate for the administrative assessment of  
9 penalties. However, the screening procedure shall not limit  
10 the discretion of the department to refer any case to the  
11 attorney general for legal action.

12 3. A penalty shall be paid within thirty days of the date  
13 the order assessing the penalty becomes final. When a person  
14 against whom a civil penalty is assessed under this section  
15 seeks timely judicial review of an order imposing the penalty  
16 as provided under chapter 17A, the order is not final for the  
17 purposes of this section until all judicial review processes  
18 are completed. Additional judicial review may not be sought  
19 after the order becomes final. A person who fails to timely  
20 pay a civil penalty assessed by a final order of the  
21 department shall pay, in addition, interest at the rate of one  
22 and one-half percent of the unpaid balance of the assessed  
23 penalty for each month or part of a month that the penalty  
24 remains unpaid. The attorney general shall institute, at the  
25 request of the department, summary proceedings to recover the  
26 penalty and any accrued interest.

27 4. All civil penalties assessed by the department and  
28 interest on the penalties shall be deposited in the general  
29 fund of the state.

30 5. This section does not require the commission or the  
31 director to pursue an administrative remedy before seeking a  
32 remedy in the courts of this state.

33 Sec. 7. Sections 455C.6 and 455C.10, Code 2005, are  
34 repealed.

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EXPLANATION

1 This bill relates to acceptance of empty beverage  
2 containers by dealers of beverages.

3 The bill increases the reimbursement amount received by a  
4 dealer or person operating a redemption center who redeems  
5 empty beverage containers from 1 cent per container to 2 cents  
6 per container. The reimbursement amount, commonly referred to  
7 as a handling fee, is paid by the distributor who collects the  
8 beverage containers from the dealer or person operating a  
9 redemption center.

10 The bill eliminates the ability of a dealer of beverages to  
11 refuse to accept any empty beverage container if the place of  
12 business of the dealer and the kind and brand of empty  
13 beverage containers are included in an order of the department  
14 of natural resources approving a redemption center.

15 The bill makes conforming amendments related to the  
16 elimination of approved redemption centers.

17 The bill requires the department to establish, by rule, a  
18 schedule or range of civil penalties which may be  
19 administratively assessed for violations of Code chapter 455C  
20 or rules, permits, or orders adopted or issued pursuant to  
21 Code chapter 455C. The bill provides factors to consider in  
22 the adoption of a schedule or range of penalties. The bill  
23 provides that penalties may be administratively assessed only  
24 after an opportunity for a contested case hearing which may be  
25 combined with a hearing on the merits of the alleged  
26 violation. The bill provides that violations not fitting  
27 within the schedule, or violations which the environmental  
28 protection commission determines should be referred to the  
29 attorney general for legal action, shall not be governed by  
30 the schedule. The bill requires the commission to establish a  
31 screening procedure for alleged violations. The bill provides  
32 payment requirements and provisions for judicial review of  
33 civil penalties. The bill provides that all civil penalties  
34 assessed by the department and interest on the penalties shall  
35 be deposited in the general fund of the state. The bill

1 provides that the commission or the director is not required  
2 to pursue an administrative remedy before seeking a remedy in  
3 the courts of this state. The bill provides that the state is  
4 precluded from bringing a criminal action against a person if  
5 the department has initiated a civil enforcement proceeding.

6 Currently, pollution-control or recycling property is  
7 exempt from taxation. "Recycling property" is personal  
8 property or improvements to real property or any portion of  
9 the property, used primarily in the manufacturing process and  
10 resulting directly in the conversion of waste plastic,  
11 wastepaper products, waste paperboard, or waste wood products  
12 into new raw materials or products composed primarily of  
13 recycled material. The bill adds waste glass to the list of  
14 materials that are converted into new raw materials or  
15 products composed primarily of recycled material.

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