

# Legally Speaking...

## It's More Than Just a Nickel—Iowa's Bottle Deposit Law

*"Sooner or later, we sit down to a banquet of consequences."*

*- Robert Louis Stevenson (1850 – 1894)*

The Jerry Seinfeld Show aired a two-part episode in 1996 titled "The Bottle Deposit." An episode where Kramer and Newman take advantage of Michigan's 10¢ bottle deposit by driving Newman's mail truck to Michigan filled with empty 5¢ New York containers.

Lucky for Kramer and Newman, the plot was unsuccessful and the contraband containers never reached the intended destination. The "get-rich-quick" scheme would have been a fraudulent act carrying statutory penalties. Unfortunately, fraud doesn't just happen in sitcoms.

In March of 2006, a group of individuals and corporations pled guilty to federal charges for defrauding California's bottle deposit law, seeking millions of dollars for containers not qualified for refunds. A similar situation occurred in September of 2007, when Michigan officials arrested several individuals, seizing more than \$500,000 after breaking up a smuggling ring that collected and redeemed containers not qualified for the Michigan recycling refund.

Like California and Michigan, Iowa's bottle deposit law is not without difficulty. The following discussion will illustrate why Iowa's bottle deposit law represents "more than just a nickel."

### *I. Refund Label & Application*

Iowa's bottle deposit law requires beverage containers sold to consumers to clearly state the refund value of the container with an approved label of "Iowa Refund 5¢" or "IA 5¢." Refund labels on alcoholic beverages sold to consumers in Iowa must be visible on the label or on the conical portion of the bottle or can.

The Bottle Deposit Law does not specify which party is responsible for ap-

"Each beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, label or other method securely affixed to the container, the refund value of the container."

*Iowa Code § 455c.5(1)*

plying the refund information. In Iowa, the refund label on alcoholic beverage bottles must be applied by the manufacturer, wholesaler or the retailer.

### *II. Prohibited Sales & Penalties*

Alcoholic beverage bottles and cans lacking a refund label cannot be sold at retail in Iowa. Selling liquor, wine or beer in a container without the required refund label is a simple misdemeanor, punishable by a maximum fine of \$625 and imprisonment up to 30-days. Thus, Iowa retailers bear the responsibility to ensure that the proper refund label has been affixed.

Because non-compliance with Iowa's Bottle Deposit Law is criminal, the Iowa Alcoholic Beverages Division considers retailer non-compliance with the Bottle Deposit Law "criminal activity," per Iowa Code § 123.49(2)(h). Criminal activity on the licensed premises is subject to administrative sanction, carrying a civil penalty of up to \$1,000 per violation, a liq-

uor license suspension of up to one year, or revocation of the license.

### *III. Conclusion*

Iowa's Bottle Deposit Law enjoys strong support among the Iowa populace and relevant stakeholders. Recent polls indicate that 86% of Iowans support the state's bottle deposit law. Support is also evidenced by the high rate of return on bottle deposited containers. According to the Iowa Department of Natural Resources, approximately 86% of all bottle deposited containers are redeemed annually in Iowa, with a 62% return rate on liquor bottles. Therefore, alcohol retailers and wholesalers need to understand the law, be cognizant of the penalties, and work together to ensure compliance.

As Robert Stevenson once said, "Sooner or later we sit down to a banquet of circumstances." Here, the circumstances are quite simple. Selling alcoholic beverage bottles and cans without the refund label is a crime, which can result in the loss of a liquor license or beer permit. Protect your bottom line: indicate the nickel or risk getting nicked! ■

