

IOWA DEPARTMENT OF NATURAL RESOURCES

<p>Petition by the Iowa Grocery Industry Association for a Declaratory Order on Iowa Code § 455C.1 and Iowa Admin. Code § 567-107.1</p>	<p>PETITION FOR DECLARATORY ORDER</p>
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The Iowa Grocery Industry Association (hereinafter “IGIA”) petitions for a Declaratory Order pursuant to Iowa Administrative Code § 567-5.1 and Iowa Code § 17A.9 requesting equal administration and enforcement of the Beverage Containers Control Law, Iowa Code Chapter 455C, to all “dealers” under the statute.

RELEVANT FACTS

Iowa’s Beverage Containers Control law, Iowa Code Chapter 455C, commonly referred to as the “Iowa Bottle Bill,” requires consumers to provide an upfront five-cent deposit with each redeemable container with the legal requirement for that deposit to be returned to the consumer when redeemed at a dealer or redemption center. Iowa Code § 455C.1 and Iowa Administrative Code § 567-107.2 define a “dealer” as “any person who engages in the sale of beverages in beverage containers to a consumer.” The redemption requirements of Iowa Code Section 455C.2 only apply to dealers who sell beverage containers for off-premise consumption, thus excluding retailers who only sell containers for on-premises consumption. A dealer is exempted from the redemption requirements if the dealer is included in an order by the Iowa Department of Natural Resources for an approved redemption center under Iowa Code Section 455C.6.¹

¹ Iowa Code § 455C.4(2) (“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.”); *see also* IOWA DEP’T NAT. RES., BOTTLE BILL: FREQUENTLY ASKED QUESTIONS, *available at* <http://www.iowadnr.gov/Portals/idnr/uploads/waste/bottlebillfaq.pdf> (last visited July 14, 2020) (“Stores must

The IGIA includes 1,400 chain and independent supermarkets, chain and independent convenience stores, suppliers, wholesalers, brokers, manufacturers, and distributors who collectively employ over 100,000 Iowans – paying over \$1.5 billion in wages annually. These members include Iowa-based companies like Hy-Vee, Fareway, Kum & Go, Casey’s, and various independent grocery stores across Iowa, as well as out-of-state companies like Walmart and Kwik Star.² Many IGIA members meet the statute’s definition of dealers and thereby comply within the redemption requirements of the Bottle Bill.

Multiple non-IGIA retailers with locations throughout the state who also meet the definition of “dealers” and who sell significant amounts of beverage containers for off-site consumption, however, are not complying with the law by refusing to accept cans and bottles for redemption. IGIA members are in direct competition with these retailers– many of which are often located directly across the street. These non-compliant dealers accept the five-cent per container deposit from consumers but refuse to accept redemption of bottles and cans. Often, these dealers will send their customers to IGIA members for redemption. This lack of compliance with the redemption requirements forces IGIA members and redemption centers to disproportionately bear the costs of the system. Notably, IGIA grocery and convenience store members must take significant steps within their operations to accept beverage containers while also maintaining other high food safety standards. In an increasingly hyper-competitive retail

redeem Iowa empties of the products it sells However, a store can use an approved redemption center that’s certified by the Iowa DNR in place of accepting cans and bottles at their store That redemption center must redeem the products sold by that store.”).

² See, e.g., IOWA WORKFORCE DEVELOPMENT, IOWA INDUSTRY PROFILE: RETAIL TRADE (2015), available at <https://www.iowaworkforcedevelopment.gov/sites/search.iowaworkforcedevelopment.gov/files/retail.pdf> (listing Casey’s, Hy-Vee, and Walmart as “major retail trade industry employers” in Iowa in 2014); Katie Akin, *These Iowa retailers are looking to hire new employees to meet coronavirus demand*, DES MOINES REG. (Mar. 24, 2020, 12:56 PM) (listing Walmart, Hy-Vee, and Kwik Star as employers who were adding new jobs “[a]s [other] retailers across Iowa shutter due to coronavirus”).

market, these additional costs put IGIA retail members at an unfair competitive disadvantage against those dealers who do not comply with the law.

Over the past 40 years, IGIA and its members have been told that if they sell the beverage products then they should work to ensure convenient redemption is available to their customers. IGIA members have worked hard to follow the law.³ The IGIA files this petition to ensure that all dealers are required to play by the same rules and to request that the Department enforce the statute equally against all dealers under the law – not just IGIA members.

The IGIA sent a letter to the Department on September 3, 2019, raising the issue of the lack of compliance by other dealers in Iowa. The letter noted that the Department had previously sought to enforce the Bottle Bill against IGIA member Fareway Stores, Inc. in 2005 when the Iowa Attorney General’s Office threatened litigation against Fareway for alleged non-compliance with Iowa Code Chapter 455C, based on a request from the Department.⁴ The IGIA sought similar enforcement by the Department against non-IGIA members. The Department responded, noting it was aware of certain noncomplying dealers, but contending that “the [Department] has no authority under 455C to enforce these provisions.”⁵ The Department apparently chose not to respond with similar enforcement measures used in the past against IGIA

³ The IGIA notes that the redemption requirements of the Bottle Bill were temporarily suspended across Iowa pursuant to an emergency declaration signed by Governor Kim Reynolds in March 2020 due to health and safety concerns caused by COVID-19. The emergency declaration expired on July 25, 2020; however, certain IGIA members have temporarily continued to suspend accepting beverage container redemption at their facilities due to continued health and safety concerns caused by COVID-19 and a absence of guidance from the Iowa Department of Public Health, the Iowa Department of Natural Resources, the Iowa Department of Inspections and Appeals or the Center for Disease and Control. These IGIA members will resume redemption once acceptable guidance and health and safety measures are provided.

⁴ Letter from Brad Epperly and Dustin Miller, IGIA counsel, to Tom Miller, Attorney General, (Nov. 26, 2019) (on file with IGIA counsel).

⁵ Letter from David Scott, Department counsel, to Brad Epperly and Dustin Miller, IGIA counsel (Oct. 04, 2019) (on file with IGIA counsel).

members for other noncompliant dealers when put on notice by the IGIA.⁶ The Department skirted its responsibility and encouraged the IGIA to seek relief through local law enforcement.

The IGIA again sought equal enforcement against all dealers in submitting a Petition for Rulemaking to the Department on March 3, 2020. The IGIA requested a modification to the definition of “dealer” under Iowa Administrative Code § 567-107.2 to clarify the inclusion of all retailers selling covered containers for off-premises consumption. In the IGIA’s initial discussion with the Department, the Department stated that the definition change would be denied, contending that the law was sufficiently clear. The Department stated there would also be no further steps for compliance or enforcement and again skirted enforcement obligations by requesting that the IGIA seek relief with local law enforcement.

Despite these multiple efforts by the IGIA to notify and request enforcement of the Bottle Bill equally against all dealers, the Department has failed to take action against non-IGIA dealers who fail to comply with the redemption requirements of the Bottle Bill.

BRIEF STATEMENT OF APPLICABLE LAW

1. Iowa Code Chapter 455C implements Iowa’s Beverage Containers Control law, which requires dealers to charge a five-cent deposit to a consumer who purchases certain beverages and then mandates that the retailer accept all empty beverage containers of the type that was sold to consumers.⁷

⁶ Letter from David Sheridan, Assistant Attorney General, to Robert Cramer, President of Fareway Stores, Inc. (Jan. 4, 2005) (on file with IGIA counsel).

⁷ Iowa Code § 455C.3 (“Except as provided in section 455C.4 . . . [a] dealer shall not refuse to accept from a consumer any empty beverage container of the kind, size and brand sold by the dealer, or refuse to pay to the consumer the refund value of a beverage container.”); *id.* § 455C.2 (“A refund value of not less than five cents shall be paid by the consumer . . .”).

2. Iowa Code § 455C.2 sets “a refund value of not less than five cents” for beverages sold “for consumption off premises” which the consumer may return to the dealer where they “shall return the amount of the refund value.”

3. Dealers who accept containers may refuse to accept any type of container not sold by the dealer pursuant to Iowa Code § 455C.3, containers without the refund value pursuant to Iowa Code § 455C.4(1), and damaged containers pursuant to 455C.14.

4. Iowa Code § 455C.12 outlines a penalty of a simple misdemeanor for anyone violating the provisions of § 455C.2.

5. The Department is charged with carrying out Iowa Code Chapter 455C and is required to make rules through the Environmental Protection Commission (hereinafter “Commission”) to implement the Bottle Bill in Iowa Code § 455C.9.

6. Pursuant to Iowa Code Chapter 17A and § 455C.9 the Commission and the Department have adopted rules for administration of the Beverage Containers Control law at Iowa Administrative Code (hereinafter “IAC”) Chapter 567-107.

7. Under the Equal Protection Clause of the United States Constitution and the Iowa Constitution, it is unlawful for a public authority to selectively apply, administer, or enforce a statute in a discriminatory manner against certain individuals and not against other similarly situated individuals.

QUESTIONS TO BE ANSWERED

Is the Department unlawfully administering Iowa Code § 455C.1(5) and Iowa Administrative Code § 567-107.2 by selectively and unequally enforcing the redemption requirements against IGIA members and not against all dealers as defined by the law?

DESIRED ANSWERS AND REASONS FOR SUPPORT

IGIA members adhere to Iowa Code Chapter 455C and understand their responsibilities as dealers under Iowa Code § 455C.1(5). When the Department believed some IGIA members were not complying with the Bottle Bill, it sought to enforce the Bottle Bill by threatening litigation through the Iowa Attorney General's Office. Many other non-IGIA dealers, however, fail to follow the redemption requirements of the Bottle Bill and the Department has not taken similar steps to enforce these dealers to comply with the law. This lack of uniform application and enforcement of the Bottle Bill by the Department towards dealers puts IGIA members at a significant, unequal competitive disadvantage.

The IGIA requests that the Department recognize this disparity in enforcement and to take steps to ensure uniform enforcement of the Bottle Bill toward all dealers, including but not limited to:

- Provide notice to all "dealers" demanding compliance with the Bottle Bill and outlining potential enforcement and penalties; and
- Utilize the Iowa Attorney General's Office, local law enforcement, and the Department's own law enforcement resources to cite dealers who fail to comply with the redemption requirements of the Bottle Bill.

If the Department cannot ensure uniform application and enforcement, we ask that the Department suspend the deposit requirement for consumers and enforcement of the Bottle Bill until the Department can achieve uniform application and enforcement of the law for all dealers.

REASONS FOR DECLARATORY ORDER AND INTEREST IN OUTCOME

The IGIA brought this Petition because the Department, which is statutorily vested with the administration of Chapter 455C, has selectively enforced the law against IGIA members and has ignored non-compliance by non-IGIA dealers, resulting in inequitable treatment under the law against dealers across the State.

IGIA grocers and convenience stores are in fierce competition for bottle and can beverage sales with other similarly situated retailers who have refused to follow the law. These noncompliant dealers accept the deposit from consumers, but refuse to accept the return of the empty containers, forcing IGIA grocers and convenience stores to function as redemption centers for beverages sold by noncompliant dealers. IGIA grocery and convenience store members must take significant steps within their operations to accept containers while maintaining other food safety standards. In an increasingly hyper-competitive retail climate, these additional costs put IGIA retail members at a significant competitive disadvantage against those not following the law.

Chapter 455C charges the Department with the administration of the beverage container redemption law. The Department is equipped and staffed with law enforcement officers who can effectively enforce the law. The Department also has the ability utilize the Iowa Attorney General's Office and local law enforcement. The Department, however, has contended in written and verbal communication that the law somehow does not provide the Department with any enforcement authority when it pertains to enforcement against non-IGIA member, yet has sought to enforce the Bottle Bill against IGIA members.

The IGIA and its members demand that the Department recognize the selective, unequal treatment and enforcement of the redemption requirements of the Bottle Bill and that the Department take all reasonable steps to ensure that all dealers follow and adhere to the law – not just IGIA members. The IGIA requests equal treatment and enforcement of the law against all dealers.

STATEMENT ON OTHER PROCEEDINGS

The IGIA is not a party to any other proceeding involving the particular question at issue and the IGIA does not have knowledge of these questions being decided by the Department or any governmental entity.

DESCRIPTION OF ANY CLASS OF AFFECTED PERSONS

- All Iowa-based Dollar General, Inc. locations noncompliant with Iowa Code Chapter 455C including but not limited to:

221 Sw 63rd St Des Moines, IA 50312	4651 86th St Urbandale, IA 50322	3102 Merle Hay Rd Des Moines, IA 50310	2650 Ingersoll Ave Des Moines, IA 50312
421 Gateway Dr Grimes, IA 50111	5935 Merle Hay Rd Johnston, IA 50131	3220 MLK Jr. Pkwy Des Moines, IA 50310	1021 Sunset Dr Norwalk, IA 50211
3223 Se 14th St Ste C Des Moines, IA 50320	1428 E Ovid Ave Des Moines, IA 50316	1020 E Army Post Rd Des Moines, IA 50315	595 Sugar Grove Ave Dallas Center, IA 50063
4651 86th St Urbandale, IA 50322	3102 Merle Hay Rd Des Moines, IA 50310	604 Locust St Des Moines, IA 50309	2570 Hubbell Ave Des Moines, IA 50317
1003 Guthrie Street Desoto, IA 50069	2309 E 42nd St Des Moines, IA 50317	901 South Ankeny Blvd Ankeny, IA 50021	4840 Maple Dr Pleasant Hill, IA 50327
1015 Blue Stem Avenue Carlisle, IA 50047	701 8th St Sw Altoona, IA 50009	1803 W 2nd Ave Indianola, IA 50125	100 Southern Prairie Dr Madrid, IA 50156
1035 G50 Hwy Saint Charles, IA 50240	1213 N 4th Ave Winterset, IA 50273	307 Center Ave S Mitchellville, IA 50169	614 N Us Highway 69 Huxley, IA 50124
705 1st Ave Perry, IA 50220	103 Ne 2nd St Stuart, IA 50250	15 Main St Maxwell, IA 50161	1004 W Pleasant St Pleasantville, IA 50225
933 8th St Boone, IA 50036	625 E Walnut St Ogden, IA 50212	1705 S B Ave Nevada, IA 50201	211 S Monroe St Monroe, IA 50170
410 State St Guthrie Center, IA 50115	114 N Main Melcher Dallas, IA 50163	216 S Main St Osceola, IA 50213	1420 N Lincoln St Knoxville, IA 50138
612 Se Kent St	1111 S Lincoln St	2617 1st Ave E	104 N Locust St

Greenfield, IA 50849	Knoxville, IA 50138	Newton, IA 50208	Jefferson, IA 50129
1543 Broad Street Story City, IA 50248	103 S 5th St Adair, IA 50002	1635 Court Ave Chariton, IA 50049	710 Liberty St Pella, IA 50219
500 5th Avenue South Coon Rapids, IA 50058	2413 S Center St Marshalltown, IA 50158	408 S 9th St Marshalltown, IA 50158	104 W State St Marshalltown, IA 50158
114 West St South Grinnell, IA 50112	190 Highway 5 Lovilia, IA 50150	300 E Washington St Exira, IA 50076	303 Ne Idaho St Leon, IA 50144
112 N Market St Audubon, IA 50025	814 Superior St Webster City, IA 50595	106 S Franklin St Corydon, IA 50060	200 High Ave W Oskaloosa, IA 52577
1805 E 7th St Atlantic, IA 50022	316 S Brooks St Lenox, IA 50851	1701 3rd Ave E Oskaloosa, IA 52577	1212 24th St Eldora, IA 50627
608 Adams St Corning, IA 50841	900 Princeton Dr Albia, IA 52531	840 E Plaza Dr Carroll, IA 51401	200 E South St Mount Ayr, IA 50854
303 S Front Street Montezuma, IA 50171	612 E Main St Lamoni, IA 50140	1810 1st Avenue S Fort Dodge, IA 50501	301 2nd Street Toledo, IA 52342
103 N 37th Rd Lake City, IA 51449	404 Frontage Rd Moravia, IA 52571	325 6th Street Manning, IA 51455	206 Stevens St Iowa Falls, IA 50126
410 E High St Rockwell City, IA 50579	55298 Tucson Rd Griswold, IA 51535	2009 Commerce Dr Grundy Center, IA 50638	613 S Commercial Ave Eagle Grove, IA 50533
2956 190th St Manson, IA 50563	1006 N 18th St Centerville, IA 52544	306 N U Ave Villisca, IA 50864	304 Sherman Ave Ackley, IA 50601
1700 Bent St Bedford, IA 50833	1102 Central Ave. East Clarion, IA 50525	1102 Chatburn Ave Harlan, IA 51537	721 N Quincy Ave Ottumwa, IA 52501
812 N Walnut St Avoca, IA 51521	1406 Sunset Dr Belle Plaine, IA 52208	301 W. Sixth Street Hedrick, IA 52563	527 Sumner Ave Humboldt, IA 50548
942 Ninth Street Lake View, IA 51450	703 W Taylor St Creston, IA 50801	315 N Main St Sigourney, IA 52591	420 E Main St Sac City, IA 50583
401 Hwy 10 W Laurens, IA 50554	510 Central Ave West Hampton, IA 50441	227 3rd St Parkersburg, IA 50665	514 Dr Van Zee Rd Oakland, IA 51560

522 Highway 39 Denison, IA 51442	200 E Glenn Miller Dr Clarinda, IA 51632	404 River Ave N Belmond, IA 50421	2192 332nd St North English, IA 52316
1131 Court Ave Marengo, IA 52301	204 Front Ave Pocahontas, IA 50574	600 N Highland St Williamsburg, IA 52361	104 Smith St Bloomfield, IA 52537
98 Elm St Eldon, IA 52554	1922 Valley Park Dr Cedar Falls, IA 50613	66 E Tower Park Dr Waterloo, IA 50701	2406 Hwy 65 Sheffield, IA 50475
3815 University Ave Waterloo, IA 50701	3610 Hwy 30 Dunlap, IA 51529	7722 E Reinbeck Rd La Porte City, IA 50651	2921 Center Street Cedar Falls, IA 50613
820 W 5th Street Waterloo, IA 50702	428 E 1st St Waterloo, IA 50703	10 1st Ave Newhall, IA 52315	103 S K Ave Vinton, IA 52349
3715 Lafayette Rd Evansdale, IA 50707	1650 Idaho St Waterloo, IA 50703	3161 Highway 30 Woodbine, IA 51579	2935 Logan Ave Waterloo, IA 50703
723 W Sheridan Ave Ste B Shenandoah, IA 51601	210 South St W Jesup, IA 50648	1023 Central Ave. Fairbank, IA 50629	802 7th Ave Sw Tripoli, IA 50676
802 7th Ave Sw Tripoli, IA 50676	119 W Fayette St Denver, IA 50622	1023 Central Ave. Fairbank, IA 50629	1304 1st St W Independence, IA 50644
137 S Frederick Ave Oelwein, IA 50662	110 S Main St Clarksville, IA 50619	1307 West First Street Sumner, IA 50674	809 N Linn Ave New Hampton, IA 50659
202 Sunset St Urbana, IA 52345	40 Amherst Boulevard Nashua, IA 50658	4208 Lewis Access Rd Center Point, IA 52213	707 Hwy 14 Greene, IA 50636
101 S Main St Fayette, IA 52142	501 Highway 150 N West Union, IA 52175	515 W Mission St Strawberry Point, IA 52076	700 Hulin St Charles City, IA 50616
203 S 9th St Manchester, IA 52057	4 Barber Street Central City, IA 52214	6905 C Ave Ne Cedar Rapids, IA 52402	510 Central Ave West Hampton, IA 50441
151 Jacolyn Dr Nw Cedar Rapids, IA 52405	403 Edgewood Rd Nw Cedar Rapids, IA 52405	266 Blairs Ferry Rd Ne Cedar Rapids, IA 52402	500 E Union St Edgewood, IA 52042
1135 E Post Rd Marion, IA 52302	5000 Chandler Ct Marion, IA 52302	3451 Mount Vernon Rd Se	2372 175th Street Calmar, IA 52132

		Cedar Rapids, IA 52403	
713 High St Ne Elkader, IA 52043	2173 270th Ave Earlville, IA 52041	12340 Highway 18 Postville, IA 52162	1451 Zinnia Ave Nora Springs, IA 50458
213 Plaza Ln Osage, IA 50461	314 W Main St Anamosa, IA 52205	104 Oak St Riceville, IA 50466	20646 125th St Monona, IA 52159
419 2nd Ave Se Cresco, IA 52136	720 E Oak St Monticello, IA 52310	535 16th Ave Se Dyersville, IA 52040	305 N Federal Ave Mason City, IA 50401
315 E Highway 30 Lisbon, IA 52253	523 S 4th St Guttenberg, IA 52052	610 East 4th Street Saint Ansgar, IA 50472	805 11th Ave Sw Waukon, IA 52172
2192 332nd St North English, IA 52316	600 Hwy 18 East Clear Lake, IA 50428	404 River Ave N Belmond, IA 50421	1317 1st Ave E Cascade, IA 52033
5 W South St Manly, IA 50456	41 Highway 1 W Iowa City, IA 52246	107 Lincoln Hwy Stanwood, IA 52337	208 E Main Street Wyoming, IA 52362
110 West H Avenue Kalona, IA 52247	180 W Hwy 18 Garner, IA 50438	1510 Cedar St Tipton, IA 52772	95 7th St N Northwood, IA 50459
740 North Perkins Street Lone Tree, IA 52755	106 W 4th St West Liberty, IA 52776	807a Grandview Muscatine, IA 52761c	901 Cypress St Muscatine, IA 52761
225 Colonels Dr Columbus Junction, IA 52738	2000 Cedar Plaza Dr Muscatine, IA 52761	1200 W 5th St Wilton, IA 52778	403 3rd St Nw Dayton, IA 50530
1506 E Washington St Washington, IA 52353	209 Highway 30 Wheatland, IA 52777	225 W Madison St Washington, IA 52353	906 E Main St Lake Mills, IA 50450
117 Main Ave N Britt, IA 50423	605 W Locust St Dubuque, IA 52001	111 N 4th St Forest City, IA 50436	1208 Broad Street Keosauqua, IA 52565
900 Princeton Dr Albia, IA 52531	119 Madison Ave Donnellson, IA 52625	710 N Grand Ave Mount Pleasant, IA 52641	2347 County Rd 103 West Point, IA 52656
2505 280th St Montrose, IA 52639	610 S Pine St New London, IA 52645	429 Avenue H Fort Madison, IA 52627	300 Main St Keokuk, IA 52632
801 Wapello Road S.	702 Highway 61 N Wapello, IA 52653	3614 Grandview Ave	1003 Guthrie Street Desoto, IA 50069

Mediapolis, IA 52637		Muscatine, IA 52761	
2010 Commerce Dr Red Oak, IA 51566	67687 Us Highway 275 Tabor, IA 51653	1205 S Locust St Glenwood, IA 51534	1400 Northridge Rd Sidney, IA 51652
2731 E Kaneshville Blvd Council Bluffs, IA 51503	3000 N 13th St Carter Lake, IA 51510	633 L14 Remsen, IA 51050	1103 8th St Se Orange City, IA 51041
410 E 1st St Kingsley, IA 51028	301 Highway 12 Akron, IA 51001	3908 Floyd Blvd Sioux City, IA 51108	918 Central Ave Hawarden, IA 51023
711 Frontage Road Merville, IA 51039	2528 Myrtle St Sioux City, IA 51103	4401 Gordon Dr Sioux City, IA 51106	1936 Riverside Blvd Sioux City, IA 51109
2500 Glenn Ave Ste 60 Sioux City, IA 51106	1030 Riverside Blvd Sioux City, IA 51109	200 Black Forest Rd Hull, IA 51239	5629 E 460th St Paullina, IA 51046
100 Gaul Dr Sergeant Bluff, IA 51054	933 Westview Dr Rock Valley, IA 51247	1200 Hwy 31 Correctionville, IA 51016	1004 N 2nd St Cherokee, IA 51012
101 N 4th Ave Sheldon, IA 51201	702 N Eastern St Sanborn, IA 51248	210 Lacour St George, IA 51237	1609 German Ave Holstein, IA 51025
3312 Old Highway 75 Sloan, IA 51055	205 S Story St Rock Rapids, IA 51246	423 9th St Sibley, IA 51249	1430 Ia 9 Larchwood, IA 51241
209 Moorehead Ave Ida Grove, IA 51445	315 North 4th Street Mapleton, IA 51034	1423 Lake Ave Storm Lake, IA 50588	507 10th St Onawa, IA 51040
13 Park Place Dr Lake Park, IA 51347	3001 Okoboji Ave Milford, IA 51351	420 E Main St Sac City, IA 50583	

- All Iowa-based Family Dollar, Inc. locations noncompliant with Iowa Code Chapter

455C including but not limited to:

2410 Hickman Road, Des Moines, IA 50310-6134	1251 University Ave, Des Moines, IA 50314-2331	3915 Sw 9th Street, Des Moines, IA 50313	1623 6th Ave., Des Moines, IA 50314
1306 E 14th St,	3720 E 14th St,	712 Cottage St,	2231 E University Ave,

Des Moines, IA 50316-2404	Des Moines, IA 50313-3810	Adel, IA 50003- 2110	Des Moines, IA 50317-5269
3261 East Euclid Avenue, Des Moines, IA 50317-3845	1702 State Street Bellevue, IA 52031	1531 32nd St Ne Cedar Rapids, IA 52402	307 N Grand Street Chariton, IA 50049
2801 W Broadway Council Bluffs, IA 51501	2378 Rockingham Rd Davenport, IA 52802	1932 Brady St Davenport, IA 52803	1120 17th Ave Dewitt, IA 52742
2013 Central Ave # 4 Dubuque, IA 52001	21 S 15th St Fort Dodge, IA 50501	327 S 3rd Ave Marshalltown, IA 50158	1510 N Federal Ave Mason City, IA 50401
412 E Eric St Missouri Valley, IA 51555	1400 Jackson Street Sioux City, IA 51105	2200 Riverside Blvd Sioux City, IA 51109	2206 Kimball Ave Waterloo, IA 50702
1120 Franklin St Waterloo, IA 50703	611 Broadway St Waterloo, IA 50703	2306 S Center Street Marshalltown, IA 50158	2560 4th Street SW Mason City, IA 50401
901 N Grand Avenue Suite #102 Mount Pleasant, IA 52641			

- All Iowa-based Dollar Tree, Inc. locations noncompliant with Iowa Code Chapter 455C including but not limited to:

501 HWY 39 N. Denison, IA 51442	3606 Metro Drive Council Bluffs, IA 51503-7727	425 W. US Hwy 30 Carroll, IA 51401- 2263	801 Laurel Street Creston, IA 50801
1515 Lake Ave. #A Storm Lake, IA 50588-1911	605 Prospect St Webster City, IA 50595	1504 S Story St Suite 1 Boone, IA 50036	207 S. Duff Ave. Ames, IA 50010- 6641
830 South oak Street Suite 2 Iowa Falls, IA 50126-9547	2560 4th Street SW Mason City, IA 50401-4665	501 17th Street SE . Independence, IA 50644-9874	24 1st St SW Oelwein, IA 50662
2585 NW Arterial Dubuque, IA 52002	2050 John F Kennedy Rd #B Dubuque, IA 52002-3814	220 S Locust St Dubuque, IA 52003-7416	3005 Wiley Blvd SW Suite 120 Cedar Rapids, IA 52404-3178

5225 Buffalo Ridge Dr NE Cedar Rapids, IA 52233	2325 Mount Vernon Rd Cedar Rapids, IA 52403	1961 Blairs Ferry Rd NE Cedar Rapids, IA 52402	3657 1st Ave SE Cedar Rapids, IA 52402
625 Meade Drive North Liberty, IA 52317	2515 Corridor Way Coralville, IA 52241	2504 7th Ave Marion, IA 52302-3668	2604 2nd Avenue, Suite 1 Muscatine, IA 52761-5610
3301W Kimberly Rd Davenport, IA 52806-3047	902 West Kimberly Road Suite 6A Davenport, IA 52806-5717	1307 East Locust Street Davenport, IA 52803-3203	5717 Elmore Ave Ste K Davenport, IA 52807-3514
1646 1/2 Sycamore Street Iowa City, IA 52240-6044	2121 4th St SW Waverly, IA 50677-4306	915 Short Street Ste 175 Decorah, IA 52101-2412	1120 Sunset Dr #2 Norwalk, IA 50211-1340
245 50th St Suite 140 W. Des Moines, IA 50265	1618 22nd St West Des Moines, IA 50266-1407	6630 Mills Civic Pkwy Unit 3118 West Des Moines, IA 50266-8287	3765 86th Street Urbandale, IA 50322
800 First Street West Des Moines, IA 50265-4676	140 SE Laurel St. Waukee, IA 50263-8262	4349 Merle Hay Road Des Moines, IA 50310-2303	2833 Douglas Avenue. Des Moines, IA 50310-5892
4213 Fleur Drive Des Moines, IA 50321-2325	100 E. Euclid Ave Ste 25 Des Moines, IA 50313-4511	2511 SE 14th St Des Moines, IA 50320-1113	709 34th Ave SW Altoona, IA 50009
505 North Ankeny Blvd Ankeny, IA 50023	626 S 9th St Burlington, IA 52601	5911 University Avenue Suite 300 Cedar Falls, IA 50613	911 Brandilynn Blvd Cedar Falls, IA 50613
204 Drake Ave Centerville, IA 52544	510 Hildreth Street Charles City, IA 50616	1050 13th Ave N Clinton, IA 52732	2615 Lincoln Way Clinton, IA 52732
2821 E Euclid Ave Des Moines, IA 50317	6051 SE 14th Street Des Moines, IA 50320	3573 Lafayette Road Evansdale, IA 50707	507 W Burlington Avenue Fairfield, IA 52556
3019 1st Avenue South Fort Dodge, IA 50501	4515 Avenue O . Fort Madison, IA 52627	614 Horseshoe Dr Grinnell, IA 50112	205 N Park Dr Ste1 Keokuk, IA 52632
861 W Bell Ave. Knoxville, IA 50138	1319 Holton Dr SW Suite 111 LeMars, IA 51031	102 Westgate Drive Maquoketa, IA 52060	325 Iowa Speedway Drive Newton, IA 50208

209 Cornerstone Drive #D Oskaloosa, IA 52577	1110 N Quincy Ave # 2 Ottumwa, IA 52501	1452 Hamilton Blvd. Sioux City, IA 51103	3118 Singing Hills Blvd. Sioux City, IA 51106
3120 Northern Valley Dr Sioux City, IA 51108	3251 Gordon Dr. Sioux City, IA 51105	1103 13th Street, SW Spencer, IA 51301	1609 18th St Spirit Lake, IA 51360
305 South Wiley Ave Washington, IA 52353	1340 Logan Ave Waterloo, IA 50703	1921 Hawthorne Ave Waterloo, IA 50702	4011 Shoppers Blvd Waterloo, IA 50701
245 50th St Suite 140 W. Des Moines, IA 50265	411 West Agency Road #5 West Burlington, IA 52655		

- All Iowa-based Menards locations noncompliant with Iowa Code Chapter 455C including but not limited to:

370 36th Ave SW, Altoona, IA 50009	614 W Agency St West Burlington, IA 52655	2505 S Delaware Ave Ankeny, IA 50021	300 NE Destination Dr Grimes, IA 50111
12000 Hickman Rd Clive, IA 50325	6000 SE 14th St Des Moines, IA 50320	504 Iowa Ave W Marshalltown, IA 50158	3319 5TH Ave S Fort Dodge, IA 50501
1125 Brandilynn Blvd Cedar Falls, IA 50613	1051 E San Marnan Dr Waterloo, IA 50702	2800 Wiley Blvd SW Cedar Rapids, IA 52404	200 Menard Ln Marion, IA 52302
2605 Naples Ave SW Iowa City, IA 52240	3408 N Highway 61 Muscatine, IA 52761	3200 Manawa Centre Dr Council Bluffs, IA 51501	5900 Gordon Dr Sioux City, IA 51106
5300 Westside Dr Dubuque, IA 52003	540 Village Green Dr SW Mason City, IA 50401	1898 Venture Dr Ottumwa, IA 52501	

- All Iowa-based Lowe's locations including noncompliant with Iowa Code Chapter 455C but not limited to:

120 Airport Rd Ames, IA 50010	3610 8th St SW Altoona, IA 50009	1700 50th St West Des Moines, IA 50266	450 South Jordan Creek Pkwy West Des Moines, IA 50266
3955 Elmore Ave Davenport, IA 52807	3435 Agency Burlington, IA 52601	400 East Tower Park Dr Waterloo, IA 50701	5300 Blairs Forest Blvd N.E. Cedar Rapids, IA 52402
2701 2nd St Coralville, IA 52241	4100 Dodge St Dubuque, IA 52003	5758 Sunnybrook Dr Sioux City, IA 51106	

- All Iowa-based Home Depot locations noncompliant with Iowa Code Chapter 455C including but not limited to:

2335 Se Delaware Ave Ankeny IA 50021	920 Middle Road Bettendorf IA 52722	415 Cunningham Drive Sioux City IA 51106	10850 Plum Drive Urbandale IA 50322
4501 1st Avenue Se Cedar Rapids IA 52402	1850 Lincoln Way Clinton IA 52732	3700 University Ave West Des Moines IA 50266	1050 Southtown Drive Waterloo IA 50702
3101 Manawa Center Dr Council Bluffs IA 51501	4900 Se 14th St Des Moines IA 50320		

- All Iowa-based Theisen's locations noncompliant with Iowa Code Chapter 455C including but not limited to:

2312 N Jefferson Way Indianola, IA 50125	1315 South Dayton Avenue Ames, IA 50010	3362 Hwy 6 East Newton, IA 50208	403 East Oskaloosa Pella, IA 50219
602 Iowa Avenue West Marshalltown, IA 50158	208 West Street S Grinnell, IA 50112	702 Ellsworth Avenue Iowa Falls, IA 50126	1405 Highway 218 South Vinton, IA 52349
3111 16th Avenue SW Cedar Rapids, IA 52404	2900 Dodge Street Dubuque, IA 52003	1800 51st Street NE Cedar Rapids, IA 52402	803 Kelly Street Charles City, IA 50616

660 West Milwaukee St New Hampton, IA 50659	101 Chamber Dr Anamosa, IA 52205	110 East Third Street Tipton, IA 52772	232 East First Street Monticello, IA 52310
1222 9th St SE Dyersville, IA 52040	18195 Hwy 64 West Maquoketa, IA 52060	3808 Brady Street Davenport, IA 52806	

- All Iowa-based Fleet Farm locations noncompliant with Iowa Code Chapter 455C

including but not limited to:

3875 SE Delaware Ave Ankeny, IA 50021	400 West Ridgeway Avenue Cedar Falls, IA 50613	4650 Cross Pointe Blvd NE Cedar Rapids, IA 52411	3200 - 4th Street SW Mason City, IA 50401
5858 Sunnybrook Drive Sioux City, IA 51106	1300 SE Kettlestone Blvd Waukee, IA 50263		

- All other Dealers according to Iowa Code Section 455C.1(5) noncompliant with Iowa Code Chapter 455C.

**PETITIONERS' ARGUMENTS IN FAVOR OF
THE ACTIONS URGED IN THIS PETITION**

The Department is tasked with administering and enforcing Iowa Code Chapter 455C uniformly to all similarly-situated parties, and consumers expect that all dealers follow the requirements set forth in Iowa's Bottle Bill. The Department is the only agency identified in Iowa Code Chapter 455C, and it is adequately equipped with its own law enforcement officers, resources, and the capabilities needed to equally enforce the law.

Through correspondence from 2019 through today, the Department has recognized that all dealers under 455C.1(5) must follow the law and it has acknowledged the fact that certain non-IGIA dealers do not follow the law. The Department's enforcement of the Bottle Bill,

however, has been disproportionately directed toward IGIA members, and it has refused to enforce the law against all similarly-situated dealers. Further evidence of the Department's inequitable administration of Chapter 455C is shown by its list of approved redemption centers. There is not a single dealer in the class of affected persons identified herein included in the approved redemption centers list maintained by the Department.⁸ When raised with concerns that non-IGIA dealers are not following the redemption requirements, the Department has skirted its enforcement responsibilities and has taken a position that it somehow does not have enforcement authority under the law.

Without the Department's equal enforcement of the statutes against all dealers, the cost of the system is disproportionately borne by redemption centers and IGIA members, putting IGIA retail members at a significant competitive disadvantage with other retailers in the same industry. The IGIA respectfully requests that the Department recognize this unlawful disparity in enforcement and to take all reasonable steps to ensure all dealers, not just IGIA members, are held accountable for redemption under the Bottle Bill.

MEETING WITH THE DEPARTMENT AND PETITIONER REPRESENTATIVE

Petitioners hereby request a joint meeting between the Director of Department, her legal staff, and IGIA to discuss the agency's response to this petition provided for by IAC rule 11-8.7(17A).

Please address all correspondence regarding this petition to counsel for IGIA at the address below.

/s/ Spencer S. Cady, AT0011812
Spencer S. Cady
Brad C. Epperly
Dustin J. Miller

⁸ IOWA DEP'T NAT. RES., List of Redemption Centers (Sorted by County) (last visited September 2020) (on file with IGIA counsel).

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**ATTORNEYS FOR THE IOWA
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