

method of wagering authorized by chapter 99D. This section does not apply to the sale, purchase or redemption of a ticket or share in the state lottery in compliance with chapter 99E or the sale, purchase or redemption of a share in the raffle conducted under section 22.113.

Sec. 5. Section 725.15, Code Supplement 1985, is amended to read as follows:

**725.15 EXCEPTIONS FOR LEGAL GAMBLING.**

Sections 725.5 to 725.10 and 725.12 do not apply to a game, activity, ticket, share or device when lawfully possessed, used, conducted or participated in pursuant to section 28.113, chapter 99B or chapter 99E.

Approved April 28, 1986

## CHAPTER 1126

### SECURITY INTEREST IN FARM PRODUCTS

*S.F. 2050*

**AN ACT** relating to the security interest in farm products, prohibiting certain acts, providing for penalties, and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 554.9307, subsection 1, Code Supplement 1985, is amended to read as follows:

1. Except as provided in subsection 4 the federal Food Security Act of 1985, Public Law 99-198, section 1324, a buyer in ordinary course of business as defined in section 554.1201, subsection 9, takes free of a security interest created by that person's seller even though the security interest is perfected and even though the buyer knows of its existence. For purposes of this section, a buyer or buyer in ordinary course of business includes any commission merchant, selling agent, or other person engaged in the business of receiving livestock as defined in section 189A.2 on commission for or on behalf of another.

Sec. 2. Section 554.9307, subsection 4, Code Supplement 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. A secured party may request the buyer to issue any check for payment or partial payment of a good subject to a security interest jointly in the name of both the seller and the secured party only if the secured party has included in the documents creating the security interest a written provision that a joint check would be requested or required and if the provision has been specifically signed and dated by the person granting the security interest.

Sec. 3. Section 554.9307, Code Supplement 1985, is amended by adding the following new subsections:

**NEW SUBSECTION. 5. a.** If the documents creating a security interest contain the provisions permitted pursuant to subsection 4 and meet the requirements of subsection 4, the debtor is engaged in farming operations, and the debtor sells the farm products subject to a security interest created by the debtor to a buyer not included on the list as a potential buyer, then the debtor is subject to a civil penalty of the greater of either five thousand dollars or fifteen percent of the value or benefits received by the debtor for the farm product described in the security agreement. The penalty shall be deposited in the state general fund. However, if the secured party can demonstrate in state district court upon application by the secured party that the secured party has sustained a monetary loss as a result of the debtor selling to a person other than a person on the list of potential buyers and does not reasonably expect to be able to collect under the security agreement, then to the extent that the secured party can prove by competent evidence the amount of the monetary loss and the inability to collect under the security agreement, the court shall award the secured party so much of the civil

penalty as necessary to cover the secured party's loss. However, if the secured party does ultimately recover under the security agreement, then the secured party shall remit to the state general fund the moneys collected under this subsection to the extent of the recovery. The penalty provided in this subsection shall not be imposed on the debtor if the debtor has complied with any of the following:

(1) Notified the secured party in writing of the identity of the buyer at least seven days prior to the sale.

(2) Accounted to the secured party for the proceeds of the sale not later than ten days after the sale.

(3) Acted in conformity with a written agreement between the secured party and the debtor regarding prior notification of a sale or payment of the proceeds.

b. In addition to the civil penalty provided in this section, a debtor who sells a farm product subject to a security interest created by the debtor to a buyer not included on the list as a potential buyer may also be guilty of committing theft pursuant to section 714.1, subsection 5.

c. The civil penalty provided in paragraph "a" is in lieu of and not in addition to any penalty imposed under Public Law 99-198, section 1324. If a debtor is required to pay a fine or penalty under Public Law 99-198, section 1324 and the debtor has previously also been required to pay a civil penalty pursuant to paragraph "a", then the debtor is entitled to a reimbursement of any moneys required to be paid due to a violation of paragraph "a".

**NEW SUBSECTION. 6.** A secured party is subject to the following civil penalties that shall be paid to the state general fund:

a. Two hundred dollars if the secured party fails to send a written notice to any person the secured party notified pursuant to Public Law 99-198, section 1324 as a potential buyer that the security interest has been terminated within fifteen days after all obligations for which the security interest was granted have been fulfilled, unless the debtor signs a written statement after the obligations secured by the security interest have been fulfilled waiving the requirement of the secured party to provide notice to potential buyers that the obligation has been fulfilled.

b. Two hundred dollars for each person the secured party has sent a written notice pursuant to Public Law 99-198, section 1324 who was not either of the following:

(1) Listed by the debtor as a potential buyer.

(2) A person who was identified by the debtor pursuant to subsection 5, paragraph "a", subparagraph (1).

The penalty imposed pursuant to this paragraph "b" shall not apply if the debtor does in fact sell all or part of the farm product subject to the security interest to the person to whom the notice was sent.

**NEW SUBSECTION. 7. a.** A potential buyer who receives a written notice pursuant to Public Law 99-198, section 1324, shall not publicly display or disseminate the written notice or information based upon the written notice.

b. A potential buyer who violates paragraph "a" is liable for a civil penalty in an amount of two hundred dollars. The penalty shall be paid to the state general fund.

**NEW SUBSECTION. 8. a.** In addition to any civil penalty imposed pursuant to subsections 6 and 7, a person who violates subsection 6 or 7 is liable to the debtor for any loss caused by the person resulting from the violation that the debtor can prove in court. The person may also recover from the person violating subsection 6 or 7 a penalty in an amount determined by the court not less than one hundred dollars nor more than one thousand dollars.

b. In an action in which it is found that a person has violated subsection 5, 6, or 7, the court shall award to the secured party under subsection 5 or the debtor under subsections 6 and 7 the court costs and to that party's attorneys their reasonable fees. Reasonable attorney's fees shall be determined by the value of the time reasonably expended by the attorney and not by the amount of recovery on behalf of the secured party or debtor.

**NEW SUBSECTION. 9.** For purposes of Public Law 99-198, section 1324, and this section, a written notice shall be considered to be received by the person to whom it was sent if the notice is mailed by registered mail with the proper postage and properly addressed to the person to whom it was sent. The refusal of a person to whom a notice is sent to accept delivery of the notice shall be considered receipt.

Sec. 4. This bill is effective on December 24, 1986 and shall apply to all security interests granted on or after December 24, 1986.

Approved April 28, 1986

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**CHAPTER 1127**  
**TEMPORARY CERTIFICATE FOR CHIROPRACTORS**  
*S.F. 2069*

**AN ACT** relating to the issuance of temporary certificates for chiropractors.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION. 151.12 TEMPORARY CERTIFICATE.**

The chiropractic examiners may, in their discretion, issue a temporary certificate authorizing the licensee to practice chiropractic if, in the opinion of the chiropractic examiners, a need exists and the person possesses the qualifications prescribed by the chiropractic examiners for the license, which shall be substantially equivalent to those required for licensure under this chapter. The chiropractic examiners shall determine in each instance those eligible for this license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure are mandatory for this temporary license except as specifically designated by the chiropractic examiners. The granting of a temporary license does not in any way indicate that the person so licensed is eligible for regular licensure, nor are the chiropractic examiners in any way obligated to so license the person.

The temporary certificate shall be issued for one year and, at the discretion of the chiropractic examiners may be renewed, but a person shall not practice chiropractic in excess of three years while holding a temporary certificate. The fee for this license shall be set by the chiropractic examiners and if extended beyond one year a renewal fee per year shall be set by the chiropractic examiners. The fees shall be based on the administrative costs of issuing and renewing the licenses. The chiropractic examiners may cancel a temporary certificate at any time, without a hearing, for reasons deemed sufficient to the chiropractic examiners.

When the chiropractic examiners cancel a temporary certificate they shall promptly notify the licensee by registered mail, at the licensee's last-named address, as reflected by the files of the chiropractic examiners, and the temporary certificate is terminated and of no further force and effect three days after the mailing of the notice to the licensee.

Approved April 28, 1986