

**NEW SUBSECTION.** 20. Aircraft sold to an aircraft dealer who in turn rents or leases the aircraft if all of the following apply:

- a. The aircraft is kept in the inventory of the dealer for sale at all times.
- b. The dealer reserves the right to immediately take the aircraft from the renter or lessee when a buyer is found.
- c. The renter or lessee is aware that the dealer will immediately take the aircraft when a buyer is found.

If an aircraft exempt under this subsection is used for any purpose other than leasing or renting, or the conditions in paragraphs "a", "b", and "c" are not continuously met, the dealer claiming the exemption under this subsection is liable for the tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price.

Approved May 24, 1999

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## CHAPTER 169

### PRODUCTION OF AGRICULTURAL COMMODITIES

H.F. 322

**AN ACT** relating to agricultural production, providing penalties, and providing an effective date.

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

Section 1. Section 9H.1, subsection 12, Code 1999, is amended to read as follows:

12. "Feedlot" means a lot, yard, corral, building, or other area in which hogs or cattle fed for slaughter are confined. The term includes areas which are used for the raising of crops or other vegetation and upon which hogs or cattle fed for slaughter are allowed to graze or feed.

Sec. 2. **NEW SECTION.** 8E.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Active contractor" means a person who owns a commodity that is produced by a contract producer at the contract producer's contract operation pursuant to a production contract executed pursuant to section 8E.2.
2. "Commodity" means livestock, raw milk, or a crop.
3. "Contract crop field" means farmland where a crop is produced according to a production contract executed pursuant to section 8E.2 by a contract producer who holds a legal interest in the farmland.
4. "Contract livestock facility" means an animal feeding operation as defined in section 455B.161, in which livestock or raw milk is produced according to a production contract executed pursuant to section 8E.2 by a contract producer who holds a legal interest in the animal feeding operation. "Contract livestock facility" includes a confinement feeding operation as defined in section 455B.161, an open feedlot, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed.
5. "Contract operation" means a contract livestock facility or contract crop field.
6. "Contract producer" means a person who holds a legal interest in a contract operation and who produces a commodity at the contract producer's contract operation under a production contract executed pursuant to section 8E.2.
7. "Contractor" means an active contractor or a passive contractor.

8. a. "Crop" means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

b. A "crop" does not include trees or nuts or fruit grown on trees; sod; shrubs; greenhouse plants; or plants or plant parts produced for precommercial, experimental, or research purposes.

9. "Farmland" means agricultural land that is suitable for use in farming as defined in section 9H.1.

10. "Livestock" means beef cattle, dairy cattle, sheep, or swine.

11. "Open feedlot" means an unroofed or partially roofed animal feeding operation in which no crop, vegetation, or forage growth or residue cover is maintained during the period that animals are confined in the operation.

12. "Passive contractor" means a person who furnishes management services to a contract producer, and who does not own a commodity that is produced by the contract producer at the contract producer's contract operation according to a production contract which is executed pursuant to section 8E.2.

13. "Produce" means to do any of the following:

a. Provide feed or services relating to the care and feeding of livestock. If the livestock is dairy cattle, "produce" includes milking the dairy cattle and storing raw milk at the contract producer's contract livestock facility.

b. Provide for planting, raising, harvesting, and storing a crop. "Produce" includes preparing the soil for planting and nurturing the crop by the application of fertilizers or soil conditioners as defined in section 200.3 or pesticides as defined in section 206.2.

14. "Production contract" means an oral or written agreement executed pursuant to section 8E.2 that provides for the production of a commodity or the provision of management services relating to the production of a commodity by a contract producer.

### Sec. 3. NEW SECTION. 8E.2 PRODUCTION CONTRACTS GOVERNED BY THIS CHAPTER.

1. This chapter applies to a production contract that relates to the production of a commodity owned by an active contractor and produced by a contract producer at the contract producer's contract operation, if one of the following applies:

a. The contract is executed by an active contractor and a contract producer for the production of the commodity.

b. The contract is executed by an active contractor and a passive contractor for the provision of management services to the contract producer in the production of the commodity.

c. The contract is executed by a passive contractor and a contract producer, if all of the following apply:

(1) The contract provides for management services furnished by the passive contractor to the contract producer in the production of the commodity.

(2) The passive contractor has a contractual relationship with the active contractor involving the production of the commodity.

2. A production contract is executed when it is signed or orally agreed to by each party or by a person who is authorized by a party to act on the party's behalf.

### Sec. 4. NEW SECTION. 8E.3 PRODUCTION CONTRACTS — CONFIDENTIALITY PROHIBITED.

1. A contractor shall not on or after the effective date of this Act enforce a provision in a production contract if the provision provides that information contained in the production contract is confidential.

2. A provision which is part of a production contract is void, if the provision states that information contained in the production contract is confidential. The confidentiality provision is void whether the confidentiality provision is express or implied; oral or written;

required or conditional; contained in the production contract, another production contract, or in a related document, policy, or agreement. This section does not affect other provisions of a production contract or a related document, policy, or agreement which can be given effect without the voided provision. This section does not require a party to a production contract to divulge the information in the production contract to another person.

Sec. 5. NEW SECTION. 8E.4 ENFORCEMENT.

1. The attorney general's office is the primary agency responsible for enforcing this chapter.

2. In enforcing the provisions of this chapter, the attorney general may do all of the following:

a. Apply to the district court for an injunction to do any of the following:

- (1) Restrain a contractor from engaging in conduct or practices in violation of this chapter.
- (2) Require a contractor to comply with a provision of this chapter.

b. Apply to district court for the issuance of a subpoena to obtain a production contract for purposes of enforcing this chapter.

c. Bring an action in district court to enforce penalties provided in section 8E.5, including the assessment and collection of civil penalties.

Sec. 6. NEW SECTION. 8E.5 PENALTIES.

A contractor who executes a production contract that includes a confidentiality provision in a production contract in violation of section 8E.3 is guilty of a fraudulent practice as provided in section 714.8.

Sec. 7. Section 579A.1, subsections 2, 3, and 4, Code 1999, are amended to read as follows:

2. "Custom cattle feedlot" means a feedlot where cattle owned by a person are ~~subject to care and feeding performed~~ provided feed and care by another person.

3. "Custom cattle feedlot operator" means the owner of a custom cattle feedlot or ~~a person managing the custom cattle feedlot, if the person is authorized by the owner to file and enforce a lien under this chapter~~ the owner's personal representative.

4. "Feedlot" means ~~the same as defined in section 172D.1~~ a lot, yard, corral, building, or other area in which cattle are confined and fed and maintained for forty-five days or more in any twelve-month period.

Sec. 8. Section 579A.1, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 4A. "Personal representative" means a person who is authorized by the owner of a custom cattle feedlot to act on behalf of the owner, including by executing an agreement, managing a custom cattle feedlot, or filing and enforcing liens under this chapter.

Sec. 9. Section 579A.2, subsection 1, Code 1999, is amended to read as follows:

1. A custom cattle feedlot operator shall have a lien upon the cattle and the identifiable cash proceeds from the sale of the cattle for the amount of the contract price for the feed and care of the ~~livestock cattle~~ cattle at the custom cattle feedlot ~~agreed upon pursuant to a written or oral agreement~~ by the custom cattle feedlot operator and the person who owns the cattle, which may be enforced as provided in section 579A.3.

Sec. 10. Section 579A.2, subsection 2, paragraph e, Code 1999, is amended to read as follows:

e. The printed name and signature of the person filing the form.

Sec. 11. Section 579A.2, subsection 3, Code 1999, is amended to read as follows:

3. Except as provided in chapter 581, a lien created under this section until preserved and a lien preserved under this section is superior to and shall have priority over a conflicting lien or security interest in the cattle, including a lien or security interest that was perfected prior to the creation of the lien provided under this section.

Sec. 12. NEW SECTION. 579A.4 WAIVERS UNENFORCEABLE.

A waiver of a right created by this chapter, including but not limited to, a waiver of the right to file a lien pursuant to this chapter is void and unenforceable. This section does not affect other provisions of a contract, including a production contract or a related document, policy, or agreement which can be given effect without the voided provision.

Sec. 13. NEW SECTION. 579A.5 ALTERNATE LIEN PROCEDURE.

A person who is a custom cattle feedlot operator may file and enforce a lien as a contract producer under this chapter or chapter 579B, but not both.

Sec. 14. NEW SECTION. 579B.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Commodity" means livestock, raw milk, or a crop.
2. "Contract crop field" means farmland where a crop is produced according to a production contract executed pursuant to section 579B.2 by a contract producer who owns or leases the farmland.
3. "Contract livestock facility" means an animal feeding operation as defined in section 455B.161, in which livestock or raw milk is produced according to a production contract executed pursuant to section 579B.2 by a contract producer who owns or leases the animal feeding operation. "Contract livestock facility" includes a confinement feeding operation as defined in section 455B.161, an open feedlot, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed.
4. "Contract operation" means a contract livestock facility or contract crop field.
5. "Contract producer" means a person who owns or leases a contract operation and who produces a commodity under a production contract executed pursuant to section 579B.2.
6. "Contractor" means a person who owns a commodity at the time that the commodity is under the authority of the contract producer as provided in section 579B.3 pursuant to a production contract executed pursuant to section 579B.2.
  7. a. "Crop" means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.
    - b. A "crop" does not include trees or nuts or fruit grown on trees; sod; shrubs; greenhouse plants; or plants or plant parts produced for precommercial, experimental, or research purposes.
  8. "Farmland" means agricultural land suitable for use in farming as defined in section 9H.1.
  9. "Livestock" means beef cattle, dairy cattle, sheep, or swine.
  10. "Open feedlot" means the same as defined in section 8E.1.
  11. "Personal representative" means a person who is authorized by a contract producer to act on behalf of the contract producer, including by executing an agreement, managing a contract operation, or filing and enforcing a lien as provided in this chapter.
  12. "Processor" means a person engaged in the business of manufacturing goods from commodities, including by slaughtering or processing livestock, processing raw milk, or processing crops.
  13. "Produce" means to do any of the following:
    - a. Provide feed or services relating to the care and feeding of livestock. If the livestock is dairy cattle, "produce" includes milking the dairy cattle and storing raw milk at the contract producer's contract livestock facility.
    - b. Provide for planting, raising, harvesting, and storing crop. "Produce" includes preparing the soil for planting and nurturing the crop by the application of fertilizers or soil conditioners as defined in section 200.3 or pesticides as defined in section 206.2.

14. "Production contract" means an oral or written agreement executed pursuant to section 579B.2 that provides for the production of a commodity by a contract producer.

Sec. 15. NEW SECTION. 579B.2 LIEN DEPENDS UPON PRODUCTION CONTRACTS.

1. A lien established under section 579B.3 depends upon the execution of a production contract that provides for producing a commodity owned by a contractor by a contract producer at the contract producer's contract operation.

2. A production contract is executed when it is signed or orally agreed to by each party to the contract or by a person authorized by a party to act on the party's behalf, including the contract producer's personal representative.

3. This chapter applies to any production contract that is in force on or after the effective date of this Act, regardless of the date that the production contract is executed.

Sec. 16. NEW SECTION. 579B.3 ESTABLISHMENT OF LIEN — PRIORITY.

A contract producer who is a party to a production contract executed pursuant to section 579B.2 shall have a lien as provided in this section. The amount of the lien shall be the amount owed to the contract producer pursuant to the terms of the production contract, which may be enforced as provided in section 579B.5.

1. a. If the production contract is for the production of livestock or raw milk, all of the following shall apply:

(1) For livestock, the lien shall apply to all of the following:

(a) If the livestock is not sold or slaughtered by the contractor, the lien shall be on the livestock.

(b) If the livestock is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(c) If the livestock is slaughtered by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

(2) For raw milk, the lien shall apply to all of the following:

(a) If the raw milk is not sold or processed by the contractor, the lien shall be on the raw milk.

(b) If the raw milk is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(c) If the raw milk is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

b. The lien on livestock or raw milk is created at the time the livestock arrives at the contract livestock facility and continues for one year after the livestock is no longer under the authority of the contract producer. For purposes of this section, livestock is no longer under the authority of the contract producer when the livestock leaves the contract livestock facility.

2. a. If the production contract is for the production of crops, all of the following shall apply:

(1) If the crop is not sold or processed by the contractor, the lien shall be on the crop.

(2) If the crop is sold by the contractor, the lien shall be on cash proceeds from the sale. For purposes of this subparagraph, cash held by the contractor shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds.

(3) If the crop is processed by the contractor, the lien shall be on any property of the contractor that may be subject to a security interest as provided in section 554.9102.

b. The lien on a crop is created at the time the crop is planted and continues for one year after the crop is no longer under the authority of the contract producer. For purposes of this section, a crop is no longer under the authority of the contract producer when the crop or a warehouse receipt issued by a warehouse operator licensed under chapter 203C for grain from the crop is no longer under the custody or control of the contract producer.

Sec. 17. NEW SECTION. 579B.4 PRESERVING THE LIEN — FILING REQUIREMENTS.

1. In order to preserve a lien created pursuant to section 579B.3, a contract producer must file in the office of the secretary of state a lien statement on a form prescribed by the secretary of state. If the lien arises out of producing livestock or raw milk, the contract producer must file the lien within forty-five days after the day that the livestock first arrives at the contract livestock facility. If the lien arises out of producing a crop, the contract producer must file the lien within forty-five days after the day that the crop is first planted. The secretary of state shall charge a fee of not more than ten dollars for filing the statement. The secretary of state may adopt rules pursuant to chapter 17A for the electronic filing of the statements.

2. The statement must include all of the following:

- a. An estimate of the amount owed pursuant to the production contract.
- b. The date when the livestock arrives at the contract livestock facility or the date when the crop was planted.
- c. The estimated duration of the period when the commodity will be under the authority of the contract producer.
- d. The name of the party to the production contract whose commodity is produced pursuant to the production contract.
- e. The description of the location of the contract operation, by county and township.
- f. The printed name and signature of the person filing the form.

3. Except as provided in chapter 581, a lien created under this section until preserved and a lien preserved under this section is superior to and shall have priority over a conflicting lien or security interest in the commodity, including a lien or security interest that was perfected prior to the creation of the lien under this chapter.

Sec. 18. NEW SECTION. 579B.5 ENFORCEMENT.

Before a commodity leaves the authority of the contract producer as provided in section 579B.3, the contract producer may foreclose a lien created in that section in the manner provided for the foreclosure of secured transactions as provided in sections 554.9504, 554.9506, and 554.9507. After the commodity is no longer under the authority of the contract producer, the contract producer may enforce the lien in the manner provided in chapter 554, article 9, part 5.

Sec. 19. NEW SECTION. 579B.6 WAIVERS UNENFORCEABLE.

A waiver of a right created by this chapter, including but not limited to a waiver of the right to file a lien pursuant to this chapter, is void and unenforceable. This section does not affect other provisions of a contract, including a production contract or a related document, policy, or agreement which can be given effect without the voided provision.

Sec. 20. NEW SECTION. 579B.7 ALTERNATE LIEN PROCEDURE.

A person who is a custom cattle feedlot operator as defined in section 579A.1 may file and enforce a lien as a contract producer under this chapter or chapter 579A, but not both.

Sec. 21. Section 714.8, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 17. A contractor who enforces a provision in a production contract that provides that information contained in the production contract is confidential as provided in section 8E.3.

Sec. 22. SEVERABILITY. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which shall be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Sec. 23. DIRECTIONS TO CODE EDITOR. The Code editor may codify the provisions of chapter 8E as enacted in this Act into another chapter or combine the provisions of chapter 8E as enacted in this Act with the provisions of chapter 172C as enacted in 1999

Iowa Acts, Senate File 436, into one chapter with multiple subchapters, if Senate File 436 is enacted by the 1999 Session of the Seventy-eighth General Assembly.\*

Sec. 24. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 1999

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## CHAPTER 170

### SALES AND USE TAXES ON ARGON AND SIMILAR GASES

H.F. 418

**AN ACT** exempting the sale of argon and similar gases used in the manufacturing process from the sales and use taxes, providing limited refunds, and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.45, Code 1999, is amended by adding the following new subsection:

**NEW SUBSECTION. 55.** The gross receipts from the sale of argon and other similar gases to be used in the manufacturing process.

Sec. 2. **REFUNDS.** Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 55, in this Act, for sales occurring between January 1, 1991, and the effective date of this Act, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 1999, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 3. **EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION.** This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1991.

Approved May 24, 1999

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\* See chapter 88 herein