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SENATE FILE 2352  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 2137)

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Vote: Ayes 48 Nays 0 Vote: Ayes 89 Nays 9  
Approved May 20, 1998 Passed 4/22/98  
(p. 1921) vote 47-1

A BILL FOR

1 An Act relating to agriculture, regulating the sale of  
2 agricultural products advertised as organic, providing for  
3 fees and appropriations, and providing penalties and an  
4 effective date.

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

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S.F. 2332

SUBCHAPTER 1

DEFINITIONS

Section 1. NEW SECTION. 190C.1 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Advertise" means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.

2. "Agricultural commodity" includes but is not limited to livestock, crops, or food, such as vegetables, nuts, seeds, honey, eggs, or milk existing in an unprocessed state, which is produced on a farm and marketed in the United States for human or livestock consumption.

3. "Agricultural product" means an agricultural commodity or an agricultural processed product.

4. "Agricultural processed product" means an agricultural commodity that has been processed.

5. "Board" means the organic standards review and appeals board established in section 190C.2.

6. "Claim of genuineness" means a claim made in an advertisement that refers to an agricultural product as "organic", "organically produced", "certified organic", "certified organically grown", or a derivative of any of these terms.

7. "Department" means the department of agriculture and land stewardship.

8. "Farm" means a site where the agricultural commodities are produced.

9. "Food" means an agricultural product or an agricultural product ingredient which is used or intended for use in whole or in part for human consumption.

10. "Handler" means a person engaged in the business of handling agricultural products, including but not limited to distributors, wholesalers, brokers, and repackers. "Handler" does not include a person selling agricultural products to

1 consumers on a retail basis, including a food service  
2 establishment as defined in section 137B.2, retail grocery,  
3 meat market, or bakery, if the person does not process the  
4 agricultural product.

5 11. "Label" means a commercial message in a printed medium  
6 which is affixed by any method to a product or to a receptacle  
7 including a container or package.

8 12. "Livestock" means an animal belonging to the bovine,  
9 caprine, equine, ovine, or porcine species; ostriches, rheas,  
10 or emus; farm deer as defined in section 481A.1; or poultry.

11 13. "Organic agricultural product" means food that is one  
12 of the following:

13 a. If the food is an agricultural commodity, it is  
14 produced and handled according to the requirements of this  
15 chapter, including the requirements provided pursuant to  
16 section 190C.11 by a person who is certified pursuant to  
17 section 190C.13 or registered as required pursuant to section  
18 190C.14.

19 b. If the food is an agricultural processed product, it is  
20 produced, handled, and processed according to the requirements  
21 of this chapter, including the requirements provided pursuant  
22 to section 190C.11 by a person who is certified pursuant to  
23 section 190C.13 or registered pursuant to section 190C.14.

24 14. "Processing" means turning an agricultural commodity  
25 into an agricultural processed product by physical or chemical  
26 modification, including but not limited to canning, freezing,  
27 drying, dehydrating, cooking, pressing, powdering, packaging,  
28 repacking, baking, heating, mixing, grinding, churning,  
29 separating, extracting, cutting, fermenting, eviscerating,  
30 preserving, jarring, brewing, or slaughtering.

31 15. "Produce" means to grow, raise, collect, or harvest an  
32 agricultural commodity.

33 16. "Producer" means a person who produces an agricultural  
34 commodity.

35 17. "Processor" means a person who processes an

1 agricultural commodity.

2 18. "Retailer" means a person, other than an operator of a  
3 food service establishment, who is engaged in the business of  
4 selling food at retail to the ultimate customer.

5 19. "Sale" or "sell" means a commercial transfer or offer  
6 for sale and distribution in any manner.

7 SUBCHAPTER 2

8 ADMINISTRATION

9 Sec. 2. NEW SECTION. 190C.2 ORGANIC STANDARDS REVIEW AND  
10 APPEALS BOARD.

11 1. A certification standards and appeals board is  
12 established within the department. The powers of the board  
13 are vested in and shall be exercised by eleven members  
14 appointed by the governor. The governor shall accept  
15 nominations from organizations representing persons who serve  
16 on the board, as determined by the governor.

17 2. The members shall serve staggered terms of four years  
18 beginning and ending as provided in section 69.19. However,  
19 the governor shall appoint initial members to serve for less  
20 than four years to ensure members serve staggered terms.  
21 Members appointed by the governor shall be persons  
22 knowledgeable regarding the production, handling, processing,  
23 and retailing of organic agricultural products. The governor  
24 shall appoint all of the following:

25 a. Five persons who operate farms producing organic  
26 agricultural products. At least one of the persons must be a  
27 producer of livestock, who may be a dairy or egg producer. At  
28 least one person shall be a producer of an agricultural  
29 commodity other than livestock. To qualify for appointment, a  
30 person must have derived a substantial portion of the person's  
31 income, wages, or salary from the production of organic  
32 agricultural products for three years prior to appointment.

33 b. Two persons who operate businesses processing organic  
34 agricultural products. To qualify for appointment, a person  
35 must have derived a substantial portion of the person's

1 income, wages, or salary from processing organic agricultural  
2 products for three years prior to appointment.

3 c. One of the following:

4 (1) A person who operates a business handling organic  
5 agricultural products. To qualify for appointment, a person  
6 must have derived a substantial portion of the person's  
7 income, wages, or salary from handling organic agricultural  
8 products for three years prior to appointment.

9 (2) A person who operates a business selling organic  
10 agricultural products. To qualify for appointment, a person  
11 must have derived a substantial portion of the person's  
12 income, wages, or salary from selling organic agricultural  
13 products on a retail basis for three years prior to  
14 appointment.

15 d. Two persons who have an educational degree and  
16 experience in agricultural or food science. To qualify for  
17 appointment, a person must not have a financial interest in  
18 the production, handling, processing, or selling of organic  
19 agricultural products.

20 e. One person who represents the public interest, the  
21 natural environment, or consumers. To qualify for  
22 appointment, the person must be a member of an organization  
23 representing the public interest, consumers, or the natural  
24 environment. The person must not have a financial interest in  
25 the production, handling, processing, or selling of organic  
26 agricultural products.

27 3. A vacancy on the board shall be filled in the same  
28 manner as an original appointment. A person appointed to fill  
29 a vacancy shall serve only for the unexpired portion of the  
30 term. A member is eligible for reappointment. A member may  
31 be removed from office by the governor for misfeasance,  
32 malfeasance, or willful neglect of duty or other just cause,  
33 after notice and hearing, unless the notice and hearing is  
34 expressly waived in writing.

35 4. Six members of the board constitute a quorum and the

1 affirmative vote of a majority of the members present is  
2 necessary for any substantive action to be taken by the board.  
3 The majority shall not include any member who has a conflict  
4 of interest and a statement by a member that the member has a  
5 conflict of interest is conclusive for this purpose. A  
6 vacancy in the membership does not impair the right of a  
7 quorum to exercise all rights and perform all duties of the  
8 board.

9 5. The members are entitled to receive a per diem as  
10 specified in section 7E.6 for each day spent in performance of  
11 duties as members, and shall be reimbursed for all actual and  
12 necessary expenses incurred in the performance of duties as  
13 members.

14 6. If a member has an interest, either direct or indirect,  
15 in a contract to which the board is or is to be a party, the  
16 member shall disclose the interest to the board in writing.  
17 The writing stating the conflict shall be set forth in the  
18 minutes of the board. The member having the interest shall  
19 not participate in any action by the board relating to the  
20 contract.

21 7. The board shall meet on a regular basis and at the call  
22 of the chairperson or upon the written request to the  
23 chairperson of two or more members. The department shall  
24 provide administrative support to the board.

25 Sec. 3. NEW SECTION. 190C.3 BOARD POWERS AND DUTIES.

26 The organic standards review and appeals board shall have  
27 powers and duties to do all of the following:

28 1. Monitor conditions, practices, policies, programs, and  
29 procedures affecting the production, handling, processing, and  
30 sale of organic agricultural products.

31 2. Compile materials or a list of materials which may  
32 assist producers, handlers, processors, and sellers of organic  
33 agricultural products, in complying with this chapter.

34 3. Assist the department in the development and  
35 interpretation of requirements of this chapter, including

1 requirements established pursuant to section 190C.11 and  
2 standards regarding the production, processing, handling, and  
3 selling of organic agricultural products and other matters of  
4 concern to the producers, handlers, processors, and retailers  
5 of organic agricultural products.

6 4. Provide recommendations to the department regarding the  
7 administration and enforcement of this chapter, including  
8 rules adopted by the department pursuant to this chapter.

9 5. Hear appeals of contested cases involving disciplinary  
10 action brought by the department against a person pursuant to  
11 section 190C.23. The board may approve, disapprove, or modify  
12 a departmental decision, including a decision proposed by an  
13 administrative law judge under chapter 17A. The board's  
14 decision shall be final agency action as provided in chapter  
15 17A.

16 Sec. 4. NEW SECTION. 190C.4 ADMINISTRATIVE AUTHORITY.

17 1. The department shall adopt all rules necessary to  
18 administer this chapter.

19 a. The rules may include regulations governing the  
20 production, handling, processing, and selling of agricultural  
21 products by persons advertising a claim of genuineness. These  
22 rules may provide for standards, certification, registration,  
23 inspections, testing, the assessment and collection of fees,  
24 the maintenance of records, disciplinary action, and the  
25 issuance of stop sale orders as provided in this chapter.

26 b. The rules adopted under this section shall be  
27 consistent with federal regulations adopted pursuant to the  
28 federal Organic Food Production Act of 1990. The department  
29 may adopt rules which are stricter than federal regulations to  
30 the extent allowed by federal law.

31 2. The department may appoint or contract with qualified  
32 persons to serve as certifying agencies on behalf of the  
33 department. A certifying agency shall certify persons as  
34 provided by section 190C.13 and inspect the operations of  
35 persons who are certified as provided in section 190C.22,

1 according to rules adopted by the department.

2 3. A violation of this chapter includes a violation of any  
3 rule adopted or issue ordered pursuant to this chapter as  
4 provided in this chapter and under chapter 17A.

5 Sec. 5. NEW SECTION. 190C.5 FEES AND APPROPRIATION.

6 The department shall establish a schedule of fees required  
7 for certification as provided in section 190C.13 and  
8 registration as provided in section 190C.14.

9 1. Beginning in the fiscal year that starts on July 1,  
10 2000, the amount of the fees shall be based on the amount of  
11 revenues required by the department to administer and enforce  
12 this chapter. However, a person required to be certified or  
13 registered as a producer, handler, processor, or retailer  
14 shall not pay more than one hundred dollars for each year that  
15 the person is certified or registered.

16 2. The fees shall be deposited into the general fund of  
17 the state.

18 SUBCHAPTER 3

19 REQUIREMENTS

20 Sec. 6. NEW SECTION. 190C.11 REQUIREMENTS APPLICABLE TO  
21 ORGANIC AGRICULTURAL PRODUCTS.

22 1. Only the following persons may make a claim of  
23 genuineness regarding an agricultural product sold in this  
24 state:

25 a. A person certified by the department pursuant to  
26 section 190C.13.

27 b. A person registered with the department pursuant to  
28 section 190C.14.

29 2. In advertising a product produced, handled, or  
30 processed for sale in this state, the following shall apply:

31 a. If the agricultural product was produced, handled, or  
32 processed in this state a person shall not make a claim of  
33 genuineness, unless the following applies:

34 (1) An agricultural commodity must be produced and handled  
35 in accordance with the provisions of section 190C.13.

1 (2) An agricultural processed product and each  
2 agricultural commodity that is part of the agricultural  
3 processed product must comply with the provisions of  
4 subparagraph (1) and the agricultural processed product must  
5 be processed or handled in accordance with the provisions of  
6 section 190C.13.

7 b. If the agricultural product was not produced, handled,  
8 or processed in this state, a person shall not make a claim of  
9 genuineness, unless the following applies:

10 (1) An agricultural commodity must be produced and handled  
11 in accordance with the provisions of the state or nation where  
12 the agricultural product is produced and handled, and the  
13 department must find that those provisions are at least as  
14 stringent as those required in this chapter.

15 (2) An agricultural processed product and each  
16 agricultural commodity that is part of the agricultural  
17 processed product must comply with the provisions of  
18 subparagraph (1), the agricultural processed product must be  
19 processed and handled in accordance with the provisions of the  
20 state or nation where the agricultural processed product is  
21 processed and handled, and the department must find that those  
22 provisions are at least as stringent as those required in this  
23 chapter.

24 Sec. 7. NEW SECTION. 190C.12 STANDARDS.

25 A person shall not sell an agricultural commodity by making  
26 a claim of genuineness, unless the agricultural commodity is  
27 produced, handled, and processed in accordance with standards  
28 established by rules adopted by the department as provided in  
29 this chapter. An agricultural product must be produced,  
30 handled, and processed in a manner that maintains the  
31 integrity of the agricultural product until it is sold to the  
32 consumer. The integrity of the agricultural product shall be  
33 maintained without the use of synthetic additives or  
34 materials. The rules shall provide for the production,  
35 handling, and processing of organic agricultural products by

1 using cultural, biological, and mechanical methods.

2 Sec. 8. NEW SECTION. 190C.13 CERTIFICATION.

3 1. The department shall establish and administer a program  
4 to certify producers, handlers, and processors of agricultural  
5 products who make a claim of genuineness about the production,  
6 handling, and processing of agricultural products which are  
7 sold in this state.

8 a. A certification shall expire one year from the date of  
9 issuance.

10 b. In order to be certified, a producer, handler, or  
11 processor must submit to the department an organic plan as  
12 prescribed by rules adopted by the department. The plan shall  
13 include methods used to ensure that the agricultural products  
14 are produced, handled, and processed according to requirements  
15 established by the department pursuant to section 190C.11.  
16 However, this section shall not require that any of the  
17 following persons be certified:

18 (1) A retailer to the extent that the retailer sells food  
19 unsealed, unpacked, repacked, or nonrepackaged.

20 (2) A person who receives five thousand dollars or less in  
21 gross income from the sale of agricultural products.

22 Any person exempted from certification under this  
23 subsection, who makes a claim of genuineness, register  
24 pursuant to section 190C.14.

25 2. The department shall adopt rules establishing a  
26 certification procedure. The procedure shall provide that a  
27 decision to certify an applicant must be made by more than one  
28 person authorized by the department.

29 Sec. 9. NEW SECTION. 190C.14 REGISTRATION.

30 The department shall establish and administer a program to  
31 register producers, handlers, processors, and retailers of  
32 agricultural products who make a claim of genuineness about  
33 the production, handling, or processing of an agricultural  
34 product. A registration shall expire one year from the date  
35 of issuance. A person is not required to be registered

1 pursuant to this section, if the person is certified pursuant  
2 to section 190C.13. The department shall adopt rules  
3 establishing registration procedures.

4 Sec. 10. NEW SECTION. 190C.15 LABELING AND ORGANIC  
5 CERTIFICATION SEAL.

6 1. A label advertising a claim of genuineness regarding an  
7 agricultural product sold in this state shall conform with the  
8 requirements of this chapter including requirements  
9 established in rules adopted by the department pursuant to  
10 section 190C.11. The department shall adopt rules specifying  
11 the content of the label.

12 2. The department may establish a seal certifying that a  
13 claim of genuineness is valid, or that an agricultural product  
14 has been produced, handled, and processed in accordance with  
15 this chapter. A person shall not use a seal provided in this  
16 section to advertise an agricultural product, unless the  
17 person is authorized to use the seal by the department in  
18 accordance with requirements established by the department  
19 pursuant to rules adopted under chapter 17A. The seal may be  
20 used in addition to or in lieu of a label provided in  
21 subsection 1, as provided by the department.

22 Sec. 11. NEW SECTION. 190C.16 RECORDS.

23 A person required to be certified as provided in section  
24 190C.13 shall maintain records regarding the production,  
25 processing, and handling of an organic agricultural product.  
26 The records shall demonstrate that agricultural products  
27 subject to a claim of genuineness have been produced,  
28 processed, and handled in conformance with this chapter. A  
29 record is not required to be maintained for more than five  
30 years.

31 SUBCHAPTER 4  
32 ENFORCEMENT

33 Sec. 12. NEW SECTION. 190C.21 GENERAL ENFORCEMENT.

34 The department and the attorney general shall enforce this  
35 chapter. The attorney general may commence legal proceedings

1 in district court at the request of the department or upon the  
2 attorney general's own initiative in order to enforce this  
3 chapter, including rules adopted and orders issued by the  
4 department pursuant to this chapter. This chapter does not  
5 require the attorney general or the department to institute a  
6 proceeding for a minor violation, if the attorney general or  
7 department concludes that the public interest will be best  
8 served by a suitable notice of warning in writing.

9 Sec. 13. NEW SECTION. 190C.22 INVESTIGATIONS --  
10 COMPLAINTS -- INSPECTIONS -- EXAMINATIONS.

11 1. The department may conduct an investigation to  
12 determine if a person is complying with the requirements of  
13 this chapter.

14 2. Any person may file a complaint with the department  
15 regarding a violation of this chapter. The department shall  
16 adopt procedures for persons filing complaints. The  
17 department shall establish procedures for processing  
18 complaints including requiring minimum information to  
19 determine the verifiability of a complaint.

20 3. The department may conduct inspections at times and  
21 places, and to an extent that the department determines  
22 necessary in order to conclude whether an agricultural product  
23 is being produced, handled, processed, or sold in accordance  
24 with the provisions of this chapter. The department may  
25 inspect records required to be maintained pursuant to section  
26 190C.16. The department may enter upon any public or private  
27 premises during regular business hours in a manner consistent  
28 with the laws of this state and the United States, including  
29 Article I, section 8, of the Constitution of the State of  
30 Iowa, or the fourth amendment to the Constitution of the  
31 United States for purposes of carrying out an inspection.

32 4. The department may conduct examinations of agricultural  
33 products in order to determine if the products are produced,  
34 handled, processed, and sold in compliance with this chapter.

35 a. The methods for examination shall be the official

1 methods of the association of official agricultural chemists  
2 in all cases where methods have been adopted by the  
3 association.

4 b. A sworn statement by the state chemist or the state  
5 chemist's deputy stating the results of an analysis of a  
6 sample taken from a lot of agricultural products shall  
7 constitute prima facie evidence of the correctness of the  
8 analysis of that lot in an administrative hearing or court of  
9 this state.

10 Sec. 14. NEW SECTION. 190C.23 DISCIPLINARY ACTION.

11 1. The department may take disciplinary action concerning  
12 a person who is certified or registered pursuant to this  
13 chapter by doing any of the following:

14 a. Issuing a letter of warning or reprimand.

15 b. Suspending or terminating a certification or denying an  
16 application for certification required pursuant to section  
17 190C.13.

18 c. Suspending or canceling a registration or denying an  
19 application for registration as required pursuant to section  
20 190C.14.

21 2. The disciplinary action must be based upon evidence  
22 satisfactory to the department that the person has used  
23 fraudulent or deceptive practices in violation of this chapter  
24 or has willfully disregarded the requirements of this chapter.

25 Sec. 15. NEW SECTION. 190C.24 STOP SALE ORDER.

26 1. If a person sells an agricultural product in violation  
27 of this chapter, including a rule adopted or an order issued  
28 under this chapter, the department may issue a written order  
29 to stop the sale of the agricultural product by a person in  
30 control of the agricultural product. The person named in the  
31 order shall not sell the item until the department determines  
32 that the sale of the agricultural product is in compliance  
33 with this chapter.

34 2. The department may require that the product be held at  
35 a designated place until released by the department.

1 3. The department or the attorney general may enforce the  
2 order by petitioning the district court in the county where  
3 the agricultural product is being sold.

4 4. The department shall release the agricultural product  
5 when the department issues a release order upon satisfaction  
6 that legal requirements compelling the issuance of the stop  
7 sale order are satisfied, and all expenses incurred by the  
8 department in connection with the agricultural product's  
9 removal have been paid to the department.

10 Sec. 16. NEW SECTION. 190C.25 INJUNCTIONS.

11 The attorney general, the department, or an individual,  
12 private organization or association, county, or city may bring  
13 an action in district court to restrain a producer, processor,  
14 handler, or retailer from selling agricultural products by  
15 making claims of genuineness which are false or misleading. A  
16 petitioner shall not be required to allege facts necessary to  
17 show, or tending to show, a lack of adequate remedy at law, or  
18 that irreparable damage or loss will result if the action is  
19 brought at law or that unique or special circumstances exist.

20 Sec. 17. NEW SECTION. 190C.26 PENALTIES.

21 A person who violates this chapter is subject to a civil  
22 penalty of not more than five thousand dollars. Civil  
23 penalties shall be assessed by the district court in an action  
24 initiated by the attorney general. Each day that the offense  
25 continues constitutes a separate offense. However, a person  
26 shall not be subject to a civil penalty of more than twenty-  
27 five thousand dollars for a continuing offense. Civil  
28 penalties collected under this section shall be deposited in  
29 the general fund of the state.

30 Sec. 18. Chapter 190B, Code 1997, is repealed.

31 Sec. 19. IMPLEMENTATION.

32 1. The department of agriculture and land stewardship  
33 shall present proposed rules required to implement this Act to  
34 the organic standards review and appeals board for approval  
35 prior to filing the rules pursuant to section 17A.5.

1 that an agricultural product does comply with the requirements  
2 of the bill.

3 The bill contains a number of provisions regarding  
4 enforcement. Generally, the department and the attorney  
5 general are required to enforce the bill's provisions. The  
6 department is authorized to conduct investigations, including  
7 investigations based on complaints received by the department.  
8 The department is also authorized to conduct inspections of  
9 premises where production, handling, processing, and sales  
10 occur. The department may examine agricultural products to  
11 ensure compliance with the bill's provisions. The department  
12 may take disciplinary action concerning a person who is  
13 certified or registered, by issuing a letter of warning or  
14 reprimand, suspending or terminating a certification or  
15 denying an application for certification, or suspending or  
16 canceling a registration or denying an application for  
17 registration. The department may issue a stop sale order to  
18 prevent the sale of that agricultural product which may be  
19 sold in violation of the bill's provisions. The bill grants a  
20 right of a private attorney general to persons, by allowing  
21 anyone to bring an action in district court to restrain a  
22 producer, processor, handler, or retailer from selling  
23 agricultural products in violation of the bill.

24 A person who violates the bill's provisions is subject to a  
25 civil penalty of not more than \$5,000. Civil penalties must  
26 be assessed by a district court in an action initiated by the  
27 attorney general.

28 The bill provides for implementation of the bill's  
29 provisions, including the adoption of rules and the  
30 appointment of members to the organic standards review and  
31 appeals board.

32 The bill takes effect upon enactment. However, the  
33 department is not required to implement all of the provisions  
34 of the bill until certified or approved by the United States  
35 department of agriculture.



1 2. Not later than ninety days after the effective date of  
2 this Act, the governor shall appoint the members of the  
3 organic standards review and appeals board as established  
4 pursuant to section 190C.2. The governor shall make the  
5 appointments from nominations received by the governor from  
6 interested persons and organizations as recognized by the  
7 governor. Members initially appointed to the board are not  
8 required to be certified as provided in section 190C.13.

9 Sec. 20. EFFECTIVE AND APPLICABILITY DATES. This Act,  
10 being deemed of immediate importance, takes effect upon  
11 enactment. However, the department shall not be required to  
12 implement all of the provisions of this Act until it receives  
13 necessary certification or approval by the United States  
14 department of agriculture.

15 EXPLANATION

16 This bill establishes requirements for the production,  
17 handling, processing, and sale of organic agricultural  
18 products, including commodities and processed products. The  
19 requirements are administered by the department of agriculture  
20 and land stewardship. The bill replaces provisions in Code  
21 chapter 190B which currently governs the sale of organic food.

22 The bill establishes a certification standards and appeals  
23 board within the department. The members of the board  
24 appointed by the governor represent persons involved in the  
25 production, handling, processing, and sale of organic  
26 agricultural products. The board also includes a member with  
27 an educational background in agricultural or food science and  
28 a person representing public interest, consumer, or  
29 environmental organizations. The board is responsible for a  
30 number of issues, including monitoring the industry, compiling  
31 and distributing materials designed to assist interested  
32 persons, assisting the department in developing and  
33 interpreting the requirements of the new chapter, providing  
34 recommendations to the department regarding the administration  
35 and enforcement of the chapter, and hearing appeals of

1 contested cases involving disciplinary action brought by the  
2 department against persons violating the requirements of the  
3 bill.

4 The bill provides a number of requirements which must be  
5 satisfied in order to sell an agricultural product as organic,  
6 regardless of whether the product was produced, handled, or  
7 processed in the state or outside of the state. The  
8 requirements include standards which the department is  
9 required to establish by rulemaking. The bill requires that  
10 the agricultural product must be produced, handled, and  
11 processed without the use of synthetic additives or materials.

12 The bill requires the department to establish and  
13 administer a program to certify producers, handlers, and  
14 processors of agricultural products who make claims of  
15 genuineness about the production, handling, and processing of  
16 organic agricultural products. In order to be certified, a  
17 producer, handler, and processor must submit to the department  
18 an organic plan which includes methods used to ensure that the  
19 agricultural products are produced, handled, and processed  
20 according to the bill's standards. Persons required to be  
21 certified are also required to maintain records regarding  
22 business operations. Retailers and persons receiving limited  
23 income from the sale of agricultural products are excused from  
24 certification requirements. However, these persons are  
25 required to register with the department. The bill provides  
26 that a person is not required to both be certified and  
27 registered. The bill imposes fees upon persons required to be  
28 certified or registered. The fees are established at an  
29 amount required to support administration and enforcement of  
30 the bill. The bill appropriates an amount of money equal to  
31 the moneys raised in fees in order to support departmental  
32 operations.

33 The bill authorizes the department to regulate the labeling  
34 of agricultural products claimed as being organic. The  
35 department is also authorized to establish a seal certifying

## SENATE FILE 2332

S-5238

1 Amend Senate File 2332 as follows:

2 1. Page 1, line 10, by inserting after the word  
3 "crops," the following: "fiber,".

4 2. Page 1, by striking lines 20 through 24 and  
5 inserting the following:

6 "\_\_\_\_\_. "Certified" means any farm, wild crop  
7 harvesting, or handling operation that is verified  
8 annually, through an on-site inspection and  
9 comprehensive review of the operation by a certifying  
10 agent under 21 U.S.C. § 2115 or by the department's  
11 certification program, as producing and handling  
12 agricultural products in accordance with this chapter  
13 and rules adopted pursuant to this chapter."

14 3. Page 2, line 11, by inserting after the word  
15 "food" the following: "or fiber".

16 4. Page 2, line 13, by inserting after the word  
17 "food" the following: "or fiber".

18 5. Page 2, by striking lines 15 through 18 and  
19 inserting the following: "chapter."

20 6. Page 2, line 19, by inserting after the word  
21 "food" the following: "or fiber".

22 7. Page 2, by striking lines 21 through 23 and  
23 inserting the following: "of this chapter."

24 8. Page 3, by inserting after line 6 the  
25 following:

26 "\_\_\_\_\_. "Secretary" means the secretary of  
27 agriculture.

28 "\_\_\_\_\_. "System of organic farming" means a system  
29 that is designed to produce agricultural products by  
30 the use of methods and substances that maintain the  
31 integrity of organic agricultural products until they  
32 reach the consumer. This includes a management system  
33 which promotes and enhances agroecosystem health,  
34 including biodiversity, biological cycles, and soil  
35 biological activity. This is accomplished by using,  
36 where possible, cultural, biological, and mechanical  
37 methods, as opposed to using synthetic materials, to  
38 fulfill any specific function within the system.

39 "\_\_\_\_\_. "System of organic handling" means a system  
40 that is designed to handle agricultural products  
41 without the use of synthetic additives or processing  
42 in accordance with this chapter and by the use of  
43 methods and substances that maintain the integrity of  
44 organic agricultural products until they reach the  
45 consumer."

46 9. Page 3, by striking line 14, and inserting the  
47 following: "appointed by the secretary. The  
48 secretary shall accept".

49 10. Page 3, line 15, by inserting before the word  
50 "organizations" the following: "persons or".

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Page 2

- 1 11. Page 3, line 16, by striking the word  
2 "governor" and inserting the following: "secretary".  
3 12. Page 3, line 19, by striking the word  
4 "governor" and inserting the following: "secretary".  
5 13. Page 3, line 21, by striking the word  
6 "governor" and inserting the following: "secretary".  
7 14. Page 3, line 23, by striking the word  
8 "governor" and inserting the following: "secretary".  
9 15. Page 4, line 31, by striking the word  
10 "governor" and inserting the following: "secretary".  
11 16. Page 6, line 1, by striking the words and  
12 figure "section 190C.11 and" and inserting the  
13 following: "this chapter, including".  
14 17. Page 6, line 21, by striking the words "a  
15 claim of genuineness" and inserting the following:  
16 "an agricultural product as organic".  
17 18. Page 6, line 22, by striking the word  
18 "registration,".  
19 19. Page 6, by striking lines 31 through 35 and  
20 inserting the following:  
21 "2. The secretary, who may act through an  
22 authorized agent, shall serve as a certifying agent  
23 under 21 U.S.C. § 2115 or as an inspector, at times  
24 and places and to such an extent as the secretary  
25 deems necessary, to determine whether a person is in  
26 compliance with this chapter,".  
27 20. Page 7, by striking lines 6 through 15 and  
28 inserting the following:  
29 "1. The department shall establish by rule a  
30 schedule of fees under this chapter, as follows:  
31 a. An annual fee for each applicant certified as a  
32 producer of organic food or fiber which shall not  
33 exceed one thousand dollars.  
34 b. An annual fee for each applicant certified as a  
35 handler of organic food or fiber which shall not  
36 exceed two thousand dollars."  
37 21. By striking page 7, line 20, through page 8,  
38 line 23.  
39 22. By striking page 8, line 25, through page 9,  
40 line 1, and inserting the following:  
41 "1. A person shall not sell an agricultural  
42 product as organic, unless the agricultural product is  
43 produced and handled in accordance with standards  
44 established by rules adopted by the department as  
45 provided in this chapter.  
46 2. An agricultural product which is sold or  
47 advertised as organic must be produced and handled  
48 according to the following standards:  
49 a. The agricultural product must be produced and  
50 handled without the use of synthetic chemicals, except

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Page 3

1 as otherwise provided in rules adopted by the  
2 department.

3 b. The agricultural product, other than livestock,  
4 must not be produced on land to which any prohibited  
5 substances have been applied during the three years  
6 immediately preceding the harvesting of the  
7 agricultural product.

8 c. The agricultural product must be produced and  
9 handled in compliance with an organic plan agreed to  
10 by the producer and handler of the product and the  
11 certifying agent."

12 23. Page 9, by striking lines 4 through 7 and  
13 inserting the following: "to certify producers,  
14 handlers, and processors of agricultural products  
15 labeled, sold, or advertised as organic."

16 24. Page 9, by striking line 10 and inserting the  
17 following:

18 "b. In order to be certified by the department, a  
19 producer, handler, or".

20 25. Page 9, line 11, by striking the words "to  
21 the department".

22 26. Page 9, line 15, by striking the word and  
23 figure "section 190C.11" and inserting the following:  
24 "this chapter".

25 27. Page 9, by striking lines 18 and 19 and  
26 inserting the following:

27 "(1) A final retailer of agricultural products who  
28 does not process agricultural products."

29 28. Page 9, by striking lines 22 through 24.

30 29. By striking page 9, line 29, through page 10,  
31 line 3.

32 30. Page 10, by striking lines 6 and 7 and  
33 inserting the following:

34 "1. A label advertising an agricultural product as  
35 organic which is produced in this state shall conform  
36 with the".

37 31. Page 10, line 10, by striking the word and  
38 figure "section 190C.11" and inserting the following:  
39 "this chapter".

40 32. Page 10, by striking lines 12 and 13 and  
41 inserting the following:

42 "2. The department may establish a seal certifying  
43 that an agricultural product".

44 33. Page 10, line 25, by inserting after the word  
45 "product" the following: "for five years".

46 34. Page 10, by striking line 27 and inserting  
47 the following: "advertised as organic have been  
48 produced,".

49 35. Page 10, line 28, by striking the word "A".

50 36. Page 10, by striking lines 29 and 30.

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Page 4

- 1 37. Page 12, by striking lines 18 through 20.
- 2 38. Page 13, by striking lines 14 and 15 and
- 3 inserting the following: "handler, or retailer from
- 4 selling an agricultural product by false or misleading
- 5 advertising claiming that the agricultural product is
- 6 organic. A".
- 7 39. Page 14, line 2, by striking the word
- 8 "governor" and inserting the following: "secretary".
- 9 40. Page 14, line 4, by striking the word
- 10 "governor" and inserting the following: "secretary".
- 11 41. Page 14, line 5, by striking the word
- 12 "governor" and inserting the following: "secretary".
- 13 42. Page 14, line 7, by striking the word
- 14 "governor" and inserting the following: "secretary".
- 15 43. Page 14, line 13, by striking the word
- 16 "certification" and inserting the following:
- 17 "accreditation".
- 18 44. By renumbering as necessary.

By DON GETTINGS  
PATTY JUDGE  
WILMER RENSINK

S-5238 FILED MARCH 12, 1998

*Adopted 3/16/98 (p 716)*

SENATE FILE **2332**  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 2137)

(AS AMENDED AND PASSED BY THE SENATE MARCH 16, 1998)

\_\_\_\_\_ - New Language by the Senate

\* - Language Stricken by the Senate

Passed Senate, Date <sup>(p. 1432)</sup> 4/21/98      Passed House, Date <sup>p. 1564</sup> 4-14-98  
Vote: Ayes 48 Nays 0      Vote: Ayes 89 Nays 9

Approved May 20, 1998

<sup>(p. 1421)</sup> Passed 4/22/98  
Vote 97-1

A BILL FOR

1 An Act relating to agriculture, regulating the sale of  
2 agricultural products advertised as organic, providing for  
3 fees and appropriations, and providing penalties and an  
4 effective date.

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

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S.F. 2332

SUBCHAPTER 1

DEFINITIONS

Section 1. NEW SECTION. 190C.1 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Advertise" means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.

2. "Agricultural commodity" includes but is not limited to livestock, crops, fiber, or food, such as vegetables, nuts, seeds, honey, eggs, or milk existing in an unprocessed state, which is produced on a farm and marketed in the United States for human or livestock consumption.

3. "Agricultural product" means an agricultural commodity or an agricultural processed product.

4. "Agricultural processed product" means an agricultural commodity that has been processed.

5. "Board" means the organic standards review and appeals board established in section 190C.2.

6. "Certified" means any farm, wild crop harvesting, or handling operation that is verified annually, through an on-site inspection and comprehensive review of the operation by a certifying agent under 21 U.S.C. § 2115 or by the department's certification program, as producing and handling agricultural products in accordance with this chapter and rules adopted pursuant to this chapter.

7. "Department" means the department of agriculture and land stewardship.

8. "Farm" means a site where the agricultural commodities are produced.

9. "Food" means an agricultural product or an agricultural product ingredient which is used or intended for use in whole or in part for human consumption.

10. "Handler" means a person engaged in the business of handling agricultural products, including but not limited to

1 distributors, wholesalers, brokers, and repackers. "Handler"  
2 does not include a person selling agricultural products to  
3 consumers on a retail basis, including a food service  
4 establishment as defined in section 137B.2, retail grocery,  
5 meat market, or bakery, if the person does not process the  
6 agricultural product.

7 11. "Label" means a commercial message in a printed medium  
8 which is affixed by any method to a product or to a receptacle  
9 including a container or package.

10 12. "Livestock" means an animal belonging to the bovine,  
11 caprine, equine, ovine, or porcine species; ostriches, rheas,  
12 or emus; farm deer as defined in section 481A.1; or poultry.

13 13. "Organic agricultural product" means food or fiber  
14 that is one of the following:

15 a. If the food or fiber is an agricultural commodity, it  
16 is produced and handled according to the requirements of this  
17 chapter.

18 b. If the food or fiber is an agricultural processed  
19 product, it is produced, handled, and processed according to  
20 the requirements of this chapter.

21 14. "Processing" means turning an agricultural commodity  
22 into an agricultural processed product by physical or chemical  
23 modification, including but not limited to canning, freezing,  
24 drying, dehydrating, cooking, pressing, powdering, packaging,  
25 repacking, baking, heating, mixing, grinding, churning,  
26 separating, extracting, cutting, fermenting, eviscerating,  
27 preserving, jarring, brewing, or slaughtering.

28 15. "Produce" means to grow, raise, collect, or harvest an  
29 agricultural commodity.

30 16. "Producer" means a person who produces an agricultural  
31 commodity.

32 17. "Processor" means a person who processes an  
33 agricultural commodity.

34 18. "Retailer" means a person, other than an operator of a  
35 food service establishment, who is engaged in the business of

1 selling food at retail to the ultimate customer.

2 19. "Sale" or "sell" means a commercial transfer or offer  
3 for sale and distribution in any manner.

4 20. "Secretary" means the secretary of agriculture.

5 21. "System of organic farming" means a system that is  
6 designed to produce agricultural products by the use of  
7 methods and substances that maintain the integrity of organic  
8 agricultural products until they reach the consumer. This  
9 includes a management system which promotes and enhances  
10 agroecosystem health, including biodiversity, biological  
11 cycles, and soil biological activity. This is accomplished by  
12 using, where possible, cultural, biological, and mechanical  
13 methods, as opposed to using synthetic materials, to fulfill  
14 any specific function within the system.

15 22. "System of organic handling" means a system that is  
16 designed to handle agricultural products without the use of  
17 synthetic additives or processing in accordance with this  
18 chapter and by the use of methods and substances that maintain  
19 the integrity of organic agricultural products until they  
20 reach the consumer.

21 SUBCHAPTER 2

22 ADMINISTRATION

23 Sec. 2. NEW SECTION. 190C.2 ORGANIC STANDARDS REVIEW AND  
24 APPEALS BOARD.

25 1. A certification standards and appeals board is  
26 established within the department. The powers of the board  
27 are vested in and shall be exercised by eleven members  
28 appointed by the secretary. The secretary shall accept  
29 nominations from persons or organizations representing persons  
30 who serve on the board, as determined by the secretary.

31 2. The members shall serve staggered terms of four years  
32 beginning and ending as provided in section 69.19. However,  
33 the secretary shall appoint initial members to serve for less  
34 than four years to ensure members serve staggered terms.  
35 Members appointed by the secretary shall be persons

1 knowledgeable regarding the production, handling, processing,  
2 and retailing of organic agricultural products. The secretary  
3 shall appoint all of the following:

4 a. Five persons who operate farms producing organic  
5 agricultural products. At least one of the persons must be a  
6 producer of livestock, who may be a dairy or egg producer. At  
7 least one person shall be a producer of an agricultural  
8 commodity other than livestock. To qualify for appointment, a  
9 person must have derived a substantial portion of the person's  
10 income, wages, or salary from the production of organic  
11 agricultural products for three years prior to appointment.

12 b. Two persons who operate businesses processing organic  
13 agricultural products. To qualify for appointment, a person  
14 must have derived a substantial portion of the person's  
15 income, wages, or salary from processing organic agricultural  
16 products for three years prior to appointment.

17 c. One of the following:

18 (1) A person who operates a business handling organic  
19 agricultural products. To qualify for appointment, a person  
20 must have derived a substantial portion of the person's  
21 income, wages, or salary from handling organic agricultural  
22 products for three years prior to appointment.

23 (2) A person who operates a business selling organic  
24 agricultural products. To qualify for appointment, a person  
25 must have derived a substantial portion of the person's  
26 income, wages, or salary from selling organic agricultural  
27 products on a retail basis for three years prior to  
28 appointment.

29 d. Two persons who have an educational degree and  
30 experience in agricultural or food science. To qualify for  
31 appointment, a person must not have a financial interest in  
32 the production, handling, processing, or selling of organic  
33 agricultural products.

34 e. One person who represents the public interest, the  
35 natural environment, or consumers. To qualify for

1 appointment, the person must be a member of an organization  
2 representing the public interest, consumers, or the natural  
3 environment. The person must not have a financial interest in  
4 the production, handling, processing, or selling of organic  
5 agricultural products.

6 3. A vacancy on the board shall be filled in the same  
7 manner as an original appointment. A person appointed to fill  
8 a vacancy shall serve only for the unexpired portion of the  
9 term. A member is eligible for reappointment. A member may  
10 be removed from office by the secretary for misfeasance,  
11 malfeasance, or willful neglect of duty or other just cause,  
12 after notice and hearing, unless the notice and hearing is  
13 expressly waived in writing.

14 4. Six members of the board constitute a quorum and the  
15 affirmative vote of a majority of the members present is  
16 necessary for any substantive action to be taken by the board.  
17 The majority shall not include any member who has a conflict  
18 of interest and a statement by a member that the member has a  
19 conflict of interest is conclusive for this purpose. A  
20 vacancy in the membership does not impair the right of a  
21 quorum to exercise all rights and perform all duties of the  
22 board.

23 5. The members are entitled to receive a per diem as  
24 specified in section 7E.6 for each day spent in performance of  
25 duties as members, and shall be reimbursed for all actual and  
26 necessary expenses incurred in the performance of duties as  
27 members.

28 6. If a member has an interest, either direct or indirect,  
29 in a contract to which the board is or is to be a party, the  
30 member shall disclose the interest to the board in writing.  
31 The writing stating the conflict shall be set forth in the  
32 minutes of the board. The member having the interest shall  
33 not participate in any action by the board relating to the  
34 contract.

35 7. The board shall meet on a regular basis and at the call

1 of the chairperson or upon the written request to the  
2 chairperson of two or more members. The department shall  
3 provide administrative support to the board.

4 Sec. 3. NEW SECTION. 190C.3 BOARD POWERS AND DUTIES.

5 The organic standards review and appeals board shall have  
6 powers and duties to do all of the following:

7 1. Monitor conditions, practices, policies, programs, and  
8 procedures affecting the production, handling, processing, and  
9 sale of organic agricultural products.

10 2. Compile materials or a list of materials which may  
11 assist producers, handlers, processors, and sellers of organic  
12 agricultural products, in complying with this chapter.

13 3. Assist the department in the development and  
14 interpretation of requirements of this chapter, including  
15 requirements established pursuant to this chapter, including  
16 standards regarding the production, processing, handling, and  
17 selling of organic agricultural products and other matters of  
18 concern to the producers, handlers, processors, and retailers  
19 of organic agricultural products.

20 4. Provide recommendations to the department regarding the  
21 administration and enforcement of this chapter, including  
22 rules adopted by the department pursuant to this chapter.

23 5. Hear appeals of contested cases involving disciplinary  
24 action brought by the department against a person pursuant to  
25 section 190C.23. The board may approve, disapprove, or modify  
26 a departmental decision, including a decision proposed by an  
27 administrative law judge under chapter 17A. The board's  
28 decision shall be final agency action as provided in chapter  
29 17A.

30 Sec. 4. NEW SECTION. 190C.4 ADMINISTRATIVE AUTHORITY.

31 1. The department shall adopt all rules necessary to  
32 administer this chapter.

33 a. The rules may include regulations governing the  
34 production, handling, processing, and selling of agricultural  
35 products by persons advertising an agricultural product as

1 organic. These rules may provide for standards,  
\* 2 certification, inspections, testing, the assessment and  
3 collection of fees, the maintenance of records, disciplinary  
4 action, and the issuance of stop sale orders as provided in  
5 this chapter.

6 b. The rules adopted under this section shall be  
7 consistent with federal regulations adopted pursuant to the  
8 federal Organic Food Production Act of 1990. The department  
9 may adopt rules which are stricter than federal regulations to  
10 the extent allowed by federal law.

11 2. The secretary, who may act through an authorized agent,  
12 shall serve as a certifying agent under 21 U.S.C. § 2115 or as  
13 an inspector, at times and places and to such an extent as the  
14 secretary deems necessary, to determine whether a person is in  
15 compliance with this chapter, according to rules adopted by  
16 the department.

17 3. A violation of this chapter includes a violation of any  
18 rule adopted or issue ordered pursuant to this chapter as  
19 provided in this chapter and under chapter 17A.

20 Sec. 5. NEW SECTION. 190C.5 FEES AND APPROPRIATION.

21 1. The department shall establish by rule a schedule of  
22 fees under this chapter, as follows:

23 a. An annual fee for each applicant certified as a  
24 producer of organic food or fiber which shall not exceed one  
25 thousand dollars.

26 b. An annual fee for each applicant certified as a handler  
27 of organic food or fiber which shall not exceed two thousand  
28 dollars.

29 2. The fees shall be deposited into the general fund of  
30 the state.

\* 31 SUBCHAPTER 3  
32 REQUIREMENTS

33 Sec. 6. NEW SECTION. 190C.12 STANDARDS.

34 1. A person shall not sell an agricultural product as  
35 organic, unless the agricultural product is produced and

1 handled in accordance with standards established by rules  
2 adopted by the department as provided in this chapter.

3 2. An agricultural product which is sold or advertised as  
4 organic must be produced and handled according to the  
5 following standards:

6 a. The agricultural product must be produced and handled  
7 without the use of synthetic chemicals, except as otherwise  
8 provided in rules adopted by the department.

9 b. The agricultural product, other than livestock, must  
10 not be produced on land to which any prohibited substances  
11 have been applied during the three years immediately preceding  
12 the harvesting of the agricultural product.

13 c. The agricultural product must be produced and handled  
14 in compliance with an organic plan agreed to by the producer  
15 and handler of the product and the certifying agent.

16 Sec. 7. NEW SECTION. 190C.13 CERTIFICATION.

17 1. The department shall establish and administer a program  
18 to certify producers, handlers, and processors of agricultural  
19 products labeled, sold, or advertised as organic.

20 a. A certification shall expire one year from the date of  
21 issuance.

22 b. In order to be certified by the department, a producer,  
23 handler, or processor must submit an organic plan as  
24 prescribed by rules adopted by the department. The plan shall  
25 include methods used to ensure that the agricultural products  
26 are produced, handled, and processed according to requirements  
27 established by the department pursuant to this chapter.

28 However, this section shall not require that any of the  
29 following persons be certified:

30 (1) A final retailer of agricultural products who does not  
31 process agricultural products.

32 (2) A person who receives five thousand dollars or less in  
33 gross income from the sale of agricultural products.

34 2. The department shall adopt rules establishing a  
35 certification procedure. The procedure shall provide that a

1 decision to certify an applicant must be made by more than one  
2 person authorized by the department.

\*3 Sec. 8. NEW SECTION. 190C.15 LABELING AND ORGANIC  
4 CERTIFICATION SEAL.

5 1. A label advertising an agricultural product as organic  
6 which is produced in this state shall conform with the  
7 requirements of this chapter including requirements  
8 established in rules adopted by the department pursuant to  
9 this chapter. The department shall adopt rules specifying the  
10 content of the label.

11 2. The department may establish a seal certifying that an  
12 agricultural product has been produced, handled, and processed  
13 in accordance with this chapter. A person shall not use a  
14 seal provided in this section to advertise an agricultural  
15 product, unless the person is authorized to use the seal by  
16 the department in accordance with requirements established by  
17 the department pursuant to rules adopted under chapter 17A.  
18 The seal may be used in addition to or in lieu of a label  
19 provided in subsection 1, as provided by the department.

20 Sec. 9. NEW SECTION. 190C.16 RECORDS.

21 A person required to be certified as provided in section  
22 190C.13 shall maintain records regarding the production,  
23 processing, and handling of an organic agricultural product  
24 for five years. The records shall demonstrate that  
25 agricultural products advertised as organic have been  
26 produced, processed, and handled in conformance with this

\*27 chapter.

28 SUBCHAPTER 4

29 ENFORCEMENT

30 Sec. 10. NEW SECTION. 190C.21 GENERAL ENFORCEMENT.

31 The department and the attorney general shall enforce this  
32 chapter. The attorney general may commence legal proceedings  
33 in district court at the request of the department or upon the  
34 attorney general's own initiative in order to enforce this  
35 chapter, including rules adopted and orders issued by the

1 department pursuant to this chapter. This chapter does not  
2 require the attorney general or the department to institute a  
3 proceeding for a minor violation, if the attorney general or  
4 department concludes that the public interest will be best  
5 served by a suitable notice of warning in writing.

6 Sec. 11. NEW SECTION. 190C.22 INVESTIGATIONS --  
7 COMPLAINTS -- INSPECTIONS -- EXAMINATIONS.

8 1. The department may conduct an investigation to  
9 determine if a person is complying with the requirements of  
10 this chapter.

11 2. Any person may file a complaint with the department  
12 regarding a violation of this chapter. The department shall  
13 adopt procedures for persons filing complaints. The  
14 department shall establish procedures for processing  
15 complaints including requiring minimum information to  
16 determine the verifiability of a complaint.

17 3. The department may conduct inspections at times and  
18 places, and to an extent that the department determines  
19 necessary in order to conclude whether an agricultural product  
20 is being produced, handled, processed, or sold in accordance  
21 with the provisions of this chapter. The department may  
22 inspect records required to be maintained pursuant to section  
23 190C.16. The department may enter upon any public or private  
24 premises during regular business hours in a manner consistent  
25 with the laws of this state and the United States, including  
26 Article I, section 8, of the Constitution of the State of  
27 Iowa, or the fourth amendment to the Constitution of the  
28 United States for purposes of carrying out an inspection.

29 4. The department may conduct examinations of agricultural  
30 products in order to determine if the products are produced,  
31 handled, processed, and sold in compliance with this chapter.

32 a. The methods for examination shall be the official  
33 methods of the association of official agricultural chemists  
34 in all cases where methods have been adopted by the  
35 association.

1 b. A sworn statement by the state chemist or the state  
2 chemist's deputy stating the results of an analysis of a  
3 sample taken from a lot of agricultural products shall  
4 constitute prima facie evidence of the correctness of the  
5 analysis of that lot in an administrative hearing or court of  
6 this state.

7 Sec. 12. NEW SECTION. 190C.23 DISCIPLINARY ACTION.

8 1. The department may take disciplinary action concerning  
9 a person who is certified or registered pursuant to this  
10 chapter by doing any of the following:

11 a. Issuing a letter of warning or reprimand.

12 b. Suspending or terminating a certification or denying an  
13 application for certification required pursuant to section  
14 190C.13.

\* 15 2. The disciplinary action must be based upon evidence  
16 satisfactory to the department that the person has used  
17 fraudulent or deceptive practices in violation of this chapter  
18 or has willfully disregarded the requirements of this chapter.

19 Sec. 13. NEW SECTION. 190C.24 STOP SALE ORDER.

20 1. If a person sells an agricultural product in violation  
21 of this chapter, including a rule adopted or an order issued  
22 under this chapter, the department may issue a written order  
23 to stop the sale of the agricultural product by a person in  
24 control of the agricultural product. The person named in the  
25 order shall not sell the item until the department determines  
26 that the sale of the agricultural product is in compliance  
27 with this chapter.

28 2. The department may require that the product be held at  
29 a designated place until released by the department.

30 3. The department or the attorney general may enforce the  
31 order by petitioning the district court in the county where  
32 the agricultural product is being sold.

33 4. The department shall release the agricultural product  
34 when the department issues a release order upon satisfaction  
35 that legal requirements compelling the issuance of the stop

1 sale order are satisfied, and all expenses incurred by the  
2 department in connection with the agricultural product's  
3 removal have been paid to the department.

4 Sec. 14. NEW SECTION. 190C.25 INJUNCTIONS.

5 The attorney general, the department, or an individual,  
6 private organization or association, county, or city may bring  
7 an action in district court to restrain a producer, processor,  
8 handler, or retailer from selling an agricultural product by  
9 false or misleading advertising claiming that the agricultural  
10 product is organic. A petitioner shall not be required to  
11 allege facts necessary to show, or tending to show, a lack of  
12 adequate remedy at law, or that irreparable damage or loss  
13 will result if the action is brought at law or that unique or  
14 special circumstances exist.

15 Sec. 15. NEW SECTION. 190C.26 PENALTIES.

16 A person who violates this chapter is subject to a civil  
17 penalty of not more than five thousand dollars. Civil  
18 penalties shall be assessed by the district court in an action  
19 initiated by the attorney general. Each day that the offense  
20 continues constitutes a separate offense. However, a person  
21 shall not be subject to a civil penalty of more than twenty-  
22 five thousand dollars for a continuing offense. Civil  
23 penalties collected under this section shall be deposited in  
24 the general fund of the state.

25 Sec. 16. Chapter 190B, Code 1997, is repealed.

26 Sec. 17. IMPLEMENTATION.

27 1. The department of agriculture and land stewardship  
28 shall present proposed rules required to implement this Act to  
29 the organic standards review and appeals board for approval  
30 prior to filing the rules pursuant to section 17A.5.

31 2. Not later than ninety days after the effective date of  
32 this Act, the secretary shall appoint the members of the  
33 organic standards review and appeals board as established  
34 pursuant to section 190C.2. The secretary shall make the  
35 appointments from nominations received by the secretary from

1 interested persons and organizations as recognized by the  
2 secretary. Members initially appointed to the board are not  
3 required to be certified as provided in section 190C.13.

4 Sec. 18. EFFECTIVE AND APPLICABILITY DATES. This Act,  
5 being deemed of immediate importance, takes effect upon  
6 enactment. However, the department shall not be required to  
7 implement all of the provisions of this Act until it receives  
8 necessary accreditation or approval by the United States  
9 department of agriculture.

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H-8882

- 1 Amend Senate File 2332, as amended, passed, and  
 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 12, by striking the words "in the  
 4 United States".
- 5 2. Page 3, line 17, by striking the words "or  
 6 processing" and inserting the following: ", aids, or  
 7 ingredients that are used during processing,  
 8 packaging, or storing agricultural products".
- 9 3. Page 3, line 31, by striking the word "years"  
 10 and inserting the following: "years."
- 11 4. Page 3, by striking line 32 and inserting the  
 12 following: "However,".
- 13 5. Page 7, by striking lines 22 through 28 and  
 14 inserting the following: "fees for persons required  
 15 to be certified as producers, handlers, and processors  
 16 of agricultural products labeled, sold, or advertised  
 17 as organic as provided in section 190C.13.
- 18 2. Beginning on July 1, 2000, the department shall  
 19 establish the rate of fees based on an estimate of the  
 20 amount of revenues from the fees required by the  
 21 department to administer and enforce this chapter.  
 22 The department shall annually review the estimate in  
 23 order to determine if the fees must be adjusted in  
 24 order to comply with this subsection. The department  
 25 may adjust the fees by rule at any time in order to  
 26 comply with this subsection."
- 27 6. Page 8, line 9, by striking the words  
 28 "product, other than livestock," and inserting the  
 29 following: "product".
- 30 7. Page 11, line 9, by striking the words "or  
 31 registered".
- 32 8. Page 13, by inserting after line 3 the  
 33 following:  
 34 "Sec. \_\_\_\_ . STAFF QUALIFICATIONS. The department  
 35 shall adopt rules regarding the qualifications of  
 36 departmental personnel responsible for implementing  
 37 and administering this Act."
- 38 9. By renumbering as necessary.

By COMMITTEE ON APPROPRIATIONS  
 MILLAGE of Scott, Chairperson

H-8882 FILED APRIL 2, 1998

*Adopted 4/14/98**(p. 1564)*

## SENATE FILE 2332

H-9108

1 Amend the amendment, H-8882, to Senate File 2332,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by striking lines 3 through 37 and  
5 inserting the following:

6 "\_\_\_\_\_. Page 1, line 12, by striking the words "in  
7 the United States".

8 "\_\_\_\_\_. Page 1, line 18, by striking the words  
9 "review and appeals".

10 "\_\_\_\_\_. Page 2, by inserting after line 33 the  
11 following:

12 "\_\_\_\_\_. "Regional organic association" means a  
13 corporation organized under chapter 504 or 504A which  
14 has certifying members, elects its own officers and  
15 directors, and is independent from the department."

16 "\_\_\_\_\_. Page 3, line 12, by striking the words  
17 "using, where possible," and inserting the following:  
18 "using".

19 "\_\_\_\_\_. Page 3, line 17, by striking the words "or  
20 processing" and inserting the following: ", aids, or  
21 ingredients that are used during processing,  
22 packaging, or storing agricultural products".

23 "\_\_\_\_\_. Page 3, lines 23 and 24, by striking the  
24 words "REVIEW AND APPEALS".

25 "\_\_\_\_\_. Page 3, by striking line 25 and inserting  
26 the following:

27 "1. An organic standards board is".

28 "\_\_\_\_\_. Page 3, by striking line 28 and inserting  
29 the following: "appointed by the governor and  
30 secretary, as provided in this section. The governor  
31 and secretary shall accept".

32 "\_\_\_\_\_. Page 3, line 30, by striking the word  
33 "secretary" and inserting the following: "governor  
34 and secretary making appointments under this section".

35 "\_\_\_\_\_. Page 3, line 33, by striking the words  
36 "secretary shall" and inserting the following:  
37 "governor and secretary shall cooperate to".

38 "\_\_\_\_\_. Page 3, line 35, by striking the words "by  
39 the secretary" and inserting the following: "under  
40 this section".

41 "\_\_\_\_\_. Page 4, by striking lines 2 and 3 and  
42 inserting the following: "and retailing of organic  
43 agricultural products. The members of the board shall  
44 be appointed as follows:"

45 "\_\_\_\_\_. Page 4, by striking lines 5 through 8 and  
46 inserting the following: "agricultural products. The  
47 governor shall appoint three of the persons, at least  
48 one of which shall be a producer of livestock, who may  
49 be a dairy or egg producer. The secretary shall  
50 appoint two of the persons, at least one of which

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Page 2

1 shall be a producer of an agricultural commodity other  
2 than livestock. To qualify for appointment, a".

3 \_\_\_\_\_. Page 4, line 13, by inserting after the word  
4 "products." the following: "One person shall be  
5 appointed by the governor and one person shall be  
6 appointed by the secretary."

7 \_\_\_\_\_. Page 4, by striking line 17 and inserting  
8 the following:

9 "c. One person appointed by the secretary, who  
10 shall be either of the following:"

11 \_\_\_\_\_. Page 4, line 30, by inserting after the word  
12 "science." the following: "One person shall be  
13 appointed by the governor and one person shall be  
14 appointed by the secretary."

15 \_\_\_\_\_. Page 4, line 34, by inserting after the word  
16 "person" the following: "appointed by the governor,".

17 \_\_\_\_\_. Page 5, by striking lines 9 and 10 and  
18 inserting the following: "term. A member is eligible  
19 for reappointment. The governor may remove a member  
20 appointed by the governor and the secretary may remove  
21 a member appointed by the secretary, if the removal is  
22 based on the member's misfeasance,".

23 \_\_\_\_\_. Page 6, line 5, by striking the words  
24 "review and appeals".

25 \_\_\_\_\_. Page 6, by inserting after line 9 the  
26 following:

27 "\_\_\_\_\_. Establish a schedule of state fees as  
28 provided in section 190C.5."

29 \_\_\_\_\_. Page 6, by striking lines 20 through 29 and  
30 inserting the following:

31 "\_\_\_\_\_. Approve or disapprove applications for  
32 certification, after reviewing applications,  
33 inspection reports, and other materials submitted by  
34 applicants. The board may suspend a decision to  
35 approve or disapprove an application until an  
36 application is complete or additional materials  
37 relating to the application are provided to the board.

38 \_\_\_\_\_. Establish procedures pursuant to rules  
39 adopted by the department governing appeals of  
40 decisions made by the department or board under this  
41 chapter, including final agency action under chapter  
42 17A."

43 \_\_\_\_\_. Page 6, line 31, by striking the word  
44 "department" and inserting the following:

45 "department, upon approval by the board,".

46 \_\_\_\_\_. Page 7, line 3, by inserting before the word  
47 "fees" the following: "state".

48 \_\_\_\_\_. Page 7, by striking lines 12 through 14 and  
49 inserting the following: "shall serve as a certifying  
50 agent under 21 U.S.C. § 2115. The secretary or the

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Page 3

1 secretary's agent may serve as an inspector in order  
2 to conduct investigations at times and places and to  
3 such an extent as the secretary and the board deems  
4 necessary to determine whether a person is in".

5 \_\_\_\_\_. Page 7, by striking lines 20 through 28 and  
6 inserting the following:

7 "Sec. \_\_\_\_\_. NEW SECTION. 190C.5 STATE FEES --  
8 DEPOSIT INTO THE GENERAL FUND OF THE STATE.

9 1. The board shall establish a schedule of state  
10 fees under this chapter by rule adopted by the  
11 department, for persons required to be certified as  
12 producers, handlers, and processors of agricultural  
13 products labeled, sold, or advertised as organic as  
14 provided in section 190C.13.

15 2. Beginning on July 1, 2000, the board shall  
16 establish the rate of fees based on an estimate of the  
17 amount of revenues from the fees required by the  
18 department to administer and enforce this chapter.  
19 The department shall annually review the estimate and  
20 recommend a change in the rate of fees to the board if  
21 the fees must be adjusted in order to comply with this  
22 subsection. The board may approve an adjustment in  
23 the fees by rule adopted by the department at any time  
24 in order to comply with this subsection."

25 \_\_\_\_\_. Page 7, line 29, by striking the words "The  
26 fees" and inserting the following: "The department  
27 shall collect state fees under this chapter as  
28 provided by the board, which".

29 \_\_\_\_\_. Page 7, by inserting after line 30 the  
30 following:

31 "Sec. \_\_\_\_\_. NEW SECTION. 190C.5A REGIONAL ORGANIC  
32 ASSOCIATIONS.

33 The department, upon approval by the board, may  
34 authorize a regional organic association to assist the  
35 board in certifying producers, handlers, and  
36 processors of agricultural products under section  
37 190C.13. The regional organic association must be  
38 registered with the department. The registered  
39 regional organic association, upon approval of the  
40 board, may administer the provisions of section  
41 190C.13 by doing all of the following:

42 1. Reviewing applications and providing applicants  
43 with technical assistance in completing applications.  
44 The department may authorize a regional organic  
45 association to process applications, including  
46 collecting and forwarding applications to the  
47 department.

48 2. Preparing a summary of an application,  
49 including materials accompanying the application, for  
50 review by the department and the organic standards

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Page 4

1 board. A regional organic association may include a  
2 recommendation for approval, modification, or  
3 disapproval of an application."

4 \_\_\_\_\_. Page 8, line 9, by striking the words  
5 "product, other than livestock," and inserting the  
6 following: "product".

7 \_\_\_\_\_. Page 8, line 19, by inserting after the word  
8 "organic" the following: "A person shall not be  
9 certified unless the certification is approved by the  
10 organic standards board".

11 \_\_\_\_\_. Page 8, line 34, by inserting after the word  
12 "rules" the following: "upon approval by the board".

13 \_\_\_\_\_. By striking page 8, line 35, through page 9,  
14 line 2, and inserting the following: "certification  
15 procedure."

16 \_\_\_\_\_. Page 11, line 8, by striking the word  
17 "department" and inserting the following: "board".

18 \_\_\_\_\_. Page 11, line 9, by striking the words "or  
19 registered".

20 \_\_\_\_\_. Page 11, line 16, by striking the word  
21 "department" and inserting the following: "board".

22 \_\_\_\_\_. Page 12, by striking lines 1 through 3 and  
23 inserting the following: "sale order are satisfied.  
24 The board must approve a delay in issuing a release  
25 order within three months after requiring that the  
26 agricultural product be held. If the person is found  
27 to have violated this chapter, the person shall pay  
28 all expenses incurred by the department in connection  
29 with the agricultural product's removal."

30 \_\_\_\_\_. Page 12, by striking lines 20 through 22 and  
31 inserting the following: "continues constitutes a  
32 separate offense. Civil".

33 \_\_\_\_\_. Page 12, line 29, by striking the words  
34 "review and appeals".

35 \_\_\_\_\_. Page 12, line 32, by inserting before the  
36 word "secretary" the following: "governor and".

37 \_\_\_\_\_. Page 12, line 33, by striking the words  
38 "review and appeals".

39 \_\_\_\_\_. Page 12, line 34, by inserting before the  
40 word "secretary" the following: "governor and".

41 \_\_\_\_\_. Page 12, line 35, by inserting before the  
42 word "secretary" the following: "governor and".

43 \_\_\_\_\_. Page 13, line 2, by inserting before the  
44 word "secretary" the following: "governor and".

45 \_\_\_\_\_. Page 13, by inserting after line 3 the  
46 following:

47 "Sec. \_\_\_\_\_. STAFF QUALIFICATIONS. The department  
48 shall adopt rules regarding the qualifications of  
49 departmental personnel responsible for implementing  
50 and administering this Act."

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Page 5

1 2. By renumbering as necessary.

By MEYER of Sac

H-9108 FILED APRIL 9, 1998

*Adopted*  
*4/14/98*  
*(P. 1564)*

HOUSE AMENDMENT TO  
SENATE FILE 2332

S-5637

1 Amend Senate File 2332, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 12, by striking the words "in the  
4 United States".

5 2. Page 1, line 18, by striking the words "review  
6 and appeals".

7 3. Page 2, by inserting after line 33 the  
8 following:

9 "\_\_\_\_\_. "Regional organic association" means a  
10 corporation organized under chapter 504 or 504A which  
11 has certifying members, elects its own officers and  
12 directors, and is independent from the department."

13 4. Page 3, line 12, by striking the words "using,  
14 where possible," and inserting the following:  
15 "using".

16 5. Page 3, line 17, by striking the words "or  
17 processing" and inserting the following: ", aids, or  
18 ingredients that are used during processing,  
19 packaging, or storing agricultural products".

20 6. Page 3, lines 23 and 24, by striking the words  
21 "REVIEW AND APPEALS".

22 7. Page 3, by striking line 25 and inserting the  
23 following:

24 "1. An organic standards board is".

25 8. Page 3, by striking line 28 and inserting the  
26 following: "appointed by the governor and secretary,  
27 as provided in this section. The governor and  
28 secretary shall accept".

29 9. Page 3, line 30, by striking the word  
30 "secretary" and inserting the following: "governor  
31 and secretary making appointments under this section".

32 10. Page 3, line 33, by striking the words  
33 "secretary shall" and inserting the following:  
34 "governor and secretary shall cooperate to".

35 11. Page 3, line 35, by striking the words "by  
36 the secretary" and inserting the following: "under  
37 this section".

38 12. Page 4, by striking lines 2 and 3 and  
39 inserting the following: "and retailing of organic  
40 agricultural products. The members of the board shall  
41 be appointed as follows:"

42 13. Page 4, by striking lines 5 through 8 and  
43 inserting the following: "agricultural products. The  
44 governor shall appoint three of the persons, at least  
45 one of which shall be a producer of livestock, who may  
46 be a dairy or egg producer. The secretary shall  
47 appoint two of the persons, at least one of which  
48 shall be a producer of an agricultural commodity other  
49 than livestock. To qualify for appointment, a".

50 14. Page 4, line 13, by inserting after the word

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Page 2

1 "products." the following: "One person shall be  
2 appointed by the governor and one person shall be  
3 appointed by the secretary."

4 15. Page 4, by striking line 17 and inserting the  
5 following:

6 "c. One person appointed by the secretary, who  
7 shall be either of the following:"

8 16. Page 4, line 30, by inserting after the word  
9 "science." the following: "One person shall be  
10 appointed by the governor and one person shall be  
11 appointed by the secretary."

12 17. Page 4, line 34, by inserting after the word  
13 "person" the following: "appointed by the governor,".

14 18. Page 5, by striking lines 9 and 10 and  
15 inserting the following: "term. A member is eligible  
16 for reappointment. The governor may remove a member  
17 appointed by the governor and the secretary may remove  
18 a member appointed by the secretary, if the removal is  
19 based on the member's misfeasance,".

20 19. Page 6, line 5, by striking the words "review  
21 and appeals".

22 20. Page 6, by inserting after line 9 the  
23 following:

24 "\_\_\_\_\_. Establish a schedule of state fees as  
25 provided in section 190C.5."

26 21. Page 6, by striking lines 20 through 29 and  
27 inserting the following:

28 "\_\_\_\_\_. Approve or disapprove applications for  
29 certification, after reviewing applications,  
30 inspection reports, and other materials submitted by  
31 applicants. The board may suspend a decision to  
32 approve or disapprove an application until an  
33 application is complete or additional materials  
34 relating to the application are provided to the board.

35 \_\_\_\_\_. Establish procedures pursuant to rules  
36 adopted by the department governing appeals of  
37 decisions made by the department or board under this  
38 chapter, including final agency action under chapter  
39 17A."

40 22. Page 6, line 31, by striking the word  
41 "department" and inserting the following:

42 "department, upon approval by the board,".

43 23. Page 7, line 3, by inserting before the word  
44 "fees" the following: "state".

45 24. Page 7, by striking lines 12 through 14 and  
46 inserting the following: "shall serve as a certifying  
47 agent under 21 U.S.C. § 2115. The secretary or the  
48 secretary's agent may serve as an inspector in order  
49 to conduct investigations at times and places and to  
50 such an extent as the secretary and the board deems

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Page 3

1 necessary to determine whether a person is in".

2 25. Page 7, by striking lines 20 through 28 and  
3 inserting the following:

4 "Sec. \_\_\_\_ . NEW SECTION. 190C.5 STATE FEES --  
5 DEPOSIT INTO THE GENERAL FUND OF THE STATE.

6 1. The board shall establish a schedule of state  
7 fees under this chapter by rule adopted by the  
8 department, for persons required to be certified as  
9 producers, handlers, and processors of agricultural  
10 products labeled, sold, or advertised as organic as  
11 provided in section 190C.13.

12 2. Beginning on July 1, 2000, the board shall  
13 establish the rate of fees based on an estimate of the  
14 amount of revenues from the fees required by the  
15 department to administer and enforce this chapter.  
16 The department shall annually review the estimate and  
17 recommend a change in the rate of fees to the board if  
18 the fees must be adjusted in order to comply with this  
19 subsection. The board may approve an adjustment in  
20 the fees by rule adopted by the department at any time  
21 in order to comply with this subsection."

22 26. Page 7, line 29, by striking the words "The  
23 fees" and inserting the following: "The department  
24 shall collect state fees under this chapter as  
25 provided by the board, which".

26 27. Page 7, by inserting after line 30 the  
27 following:

28 "Sec. \_\_\_\_ . NEW SECTION. 190C.5A REGIONAL ORGANIC  
29 ASSOCIATIONS.

30 The department, upon approval by the board, may  
31 authorize a regional organic association to assist the  
32 board in certifying producers, handlers, and  
33 processors of agricultural products under section  
34 190C.13. The regional organic association must be  
35 registered with the department. The registered  
36 regional organic association, upon approval of the  
37 board, may administer the provisions of section  
38 190C.13 by doing all of the following:

39 1. Reviewing applications and providing applicants  
40 with technical assistance in completing applications.  
41 The department may authorize a regional organic  
42 association to process applications, including  
43 collecting and forwarding applications to the  
44 department.

45 2. Preparing a summary of an application,  
46 including materials accompanying the application, for  
47 review by the department and the organic standards  
48 board. A regional organic association may include a  
49 recommendation for approval, modification, or  
50 disapproval of an application."

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Page 4

- 1 28. Page 8, line 9, by striking the words  
2 "product, other than livestock," and inserting the  
3 following: "product".
- 4 29. Page 8, line 19, by inserting after the word  
5 "organic." the following: "A person shall not be  
6 certified unless the certification is approved by the  
7 organic standards board.".
- 8 30. Page 8, line 34, by inserting after the word  
9 "rules" the following: "upon approval by the board".
- 10 31. By striking page 8, line 35, through page 9,  
11 line 2, and inserting the following: "certification  
12 procedure."
- 13 32. Page 11, line 8, by striking the word  
14 "department" and inserting the following: "board".
- 15 33. Page 11, line 9, by striking the words "or  
16 registered".
- 17 34. Page 11, line 16, by striking the word  
18 "department" and inserting the following: "board".
- 19 35. Page 12, by striking lines 1 through 3 and  
20 inserting the following: "sale order are satisfied.  
21 The board must approve a delay in issuing a release  
22 order within three months after requiring that the  
23 agricultural product be held. If the person is found  
24 to have violated this chapter, the person shall pay  
25 all expenses incurred by the department in connection  
26 with the agricultural product's removal."
- 27 36. Page 12, by striking lines 20 through 22 and  
28 inserting the following: "continues constitutes a  
29 separate offense. Civil".
- 30 37. Page 12, line 29, by striking the words  
31 "review and appeals".
- 32 38. Page 12, line 32, by inserting before the  
33 word "secretary" the following: "governor and".
- 34 39. Page 12, line 33, by striking the words  
35 "review and appeals".
- 36 40. Page 12, line 34, by inserting before the  
37 word "secretary" the following: "governor and".
- 38 41. Page 12, line 35, by inserting before the  
39 word "secretary" the following: "governor and".
- 40 42. Page 13, line 2, by inserting before the word  
41 "secretary" the following: "governor and".
- 42 43. Page 13, by inserting after line 3 the  
43 following:  
44 "Sec. \_\_\_\_ . STAFF QUALIFICATIONS. The department  
45 shall adopt rules regarding the qualifications of  
46 departmental personnel responsible for implementing  
47 and administering this Act."
- 48 44. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5637 FILED APRIL 14, 1998

*Senate Council*  
4-21-98  
(p. 1432)

## SENATE FILE 2332

S-5799

- 1 Amend the House amendment S-5637, to Senate File
- 2 2332, as amended, passed, and reprinted by the Senate,
- 3 as follows:
- 4 1. Page 1, by striking lines 32 through 34, and
- 5 inserting the following:
- 6 "\_\_\_\_. Page 3, line 31, by inserting after the
- 7 word "members" the following: "appointed by the
- 8 governor shall serve at the pleasure of the governor.
- 9 The members appointed by the secretary"."
- 10 2. By renumbering as necessary.

By PATTY JUDGE

S-5799 FILED APRIL 21, 1998

WITHDRAWN (P.1431)

## SENATE FILE 2332

S-5800

- 1 Amend the House amendment, S-5637, to Senate File
- 2 2332, as amended, passed, and reprinted by the Senate,
- 3 as follows:
- 4 1. Page 4, by striking lines 44 through 47.
- 5 2. By renumbering as necessary.

By PATTY JUDGE

S-5800 FILED APRIL 21, 1998

WITHDRAWN

## SENATE FILE 2332

S-5788

- 1 Amend the House amendment, S-5637, to Senate File
- 2 2332, as amended, passed, and reprinted by the Senate,
- 3 as follows:
- 4 1. Page 2, by inserting after line 19 the
- 5 following:
- 6 "\_\_\_\_. Page 5, by inserting after line 27 the
- 7 following:
- 8 "\_\_\_\_. Persons appointed as members of the board
- 9 shall be confirmed by the senate in the same manner as
- 10 provided in section 2.32. Sections 69.16 and 69.16A
- 11 shall apply to the appointments.""
- 12 2. By renumbering as necessary.

By PATTY JUDGE

S-5788 FILED APRIL 21, 1998

WITHDRAWN

## SENATE FILE 2332

S-5794

- 1 Amend the House amendment, S-5637, to Senate File
- 2 2332, as amended, passed, and reprinted by the Senate,
- 3 as follows:
- 4 1. Page 3, line 15, by inserting after the word
- 5 "chapter" the following: ", including board expenses
- 6 such as the amount required for the payment of per
- 7 diem and actual and necessary expenses of board
- 8 members as provided in section 190C.2".

By PATTY JUDGE

S-5794 FILED APRIL 21, 1998

WITHDRAWN

## SENATE FILE 2332

S-5795

1 Amend the House amendment, S-5637, to Senate File  
2 2332, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 2, line 14, by striking the word and  
5 figure "and 10" and inserting the following: "through  
6 13".

7 2. Page 2, by striking lines 16 through 19 and  
8 inserting the following: "for reappointment."

By PATTY JUDGE

S-5795 FILED APRIL 21, 1998  
WITHDRAWN

## SENATE FILE 2332

S-5796

1 Amend the House amendment, S-5637, to Senate File  
2 2332, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 1, line 44, by striking the word "three"  
5 and inserting the following: "two".

6 2. Page 1, line 47, by striking the word "two"  
7 and inserting the following: "three".

By PATTY JUDGE

S-5796 FILED APRIL 21, 1998  
ADOPTED (p.1432)

## SENATE FILE 2332

S-5797

1 Amend the House amendment S-5637, to Senate File  
2 2332, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 4, line 7, by inserting after the word  
5 "board." the following: "Certification under this  
6 section shall be represented as certification by the  
7 board and shall not be represented or referred to as  
8 certification by the department."

By PATTY JUDGE

S-5797 FILED APRIL 21, 1998  
WITHDRAWN

## SENATE FILE 2332

S-5798

1 Amend the House amendment, S-5637, to Senate File  
2 2332, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. By striking page 1, line 25, through page 2,  
5 line 19.

6 2. Page 4, by striking lines 32 and 33.

7 3. Page 4, by striking lines 36 through 41.

By PATTY JUDGE

S-5798 FILED APRIL 21, 1998  
WITHDRAWN

## SENATE FILE 2332

S-5801

- 1 Amend the House amendment S-5637, to Senate File  
2 2332, as amended, passed, and reprinted by the Senate,  
3 as follows:
- 4 1. Page 1, by striking lines 5 and 6.
  - 5 2. Page 1, by striking lines 20 and 21.
  - 6 3. Page 1, line 24, by inserting after the word  
7 "standards" the following: "review and appeals".
  - 8 4. Page 2, by striking lines 20 through 39, and  
9 inserting the following:  
10 "\_\_\_\_\_. Page 6, line 23, by inserting after the  
11 word "Hear" the following: "appeals of contested  
12 cases brought by a producer, handler, or processor of  
13 agricultural products who is denied certification by  
14 the department as provided in section 190C.13. The  
15 board shall also hear".
  - 16 5. Page 2, line 50, by striking the words "and  
17 the board".
  - 18 6. Page 3, line 6, by striking the word "board"  
19 and inserting the following: "department".
  - 20 7. Page 3, line 12, by striking the word "board"  
21 and inserting the following: "department".
  - 22 8. Page 3, line 16, by striking the words  
23 "estimate and" and inserting the following:  
24 "estimate."
  - 25 9. Page 3, by striking lines 17 and 18.
  - 26 10. Page 3, line 19, by striking the word  
27 "subsection."
  - 28 11. Page 3, line 19, by striking the word "board"  
29 and inserting the following: "department".
  - 30 12. Page 3, line 30, by striking the words: ",  
31 upon approval by the board,".
  - 32 13. Page 4, by striking lines 4 through 7.
  - 33 14. Page 4, by striking lines 13 and 14.
  - 34 15. Page 4, by striking lines 17 through 26.
  - 35 16. Page 4, by striking lines 30 and 31.
  - 36 17. Page 4, by striking lines 34 and 35.
  - 37 18. By renumbering as necessary.

By PATTY JUDGE

S-5801 FILED APRIL 21, 1998  
WITHDRAWN

SENATE AMENDMENT TO HOUSE AMENDMENT TO S. F. 2332  
H-9328

- 1 Amend the House amendment, S-5637, to Senate File  
2 2332, as amended, passed, and reprinted by the Senate,  
3 as follows:
- 4 1. Page 1, line 44, by striking the word "three"  
5 and inserting the following: "two".
  - 6 2. Page 1, line 47, by striking the word "two"  
7 and inserting the following: "three".

RECEIVED FROM THE SENATE

H-9328 FILED APRIL 22, 1998  
HOUSE CONCURRED (0.1919)

SSB-2137

Letting's  
Hedge  
Gaskill

Agriculture

Succeeded By  
SENATE FILE SE/HF 2332  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON RENSINK)

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

A BILL FOR

1 An Act relating to agriculture, regulating the sale of  
2 agricultural products advertised as organic, providing for  
3 fees and appropriations, and providing penalties and an  
4 effective date.

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

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1 SUBCHAPTER 1

2 DEFINITIONS

3 Section 1. NEW SECTION. 190C.1 DEFINITIONS.

4 For purposes of this chapter, unless the context otherwise  
5 requires:

6 1. "Advertise" means to present a commercial message in  
7 any medium, including but not limited to print, radio,  
8 television, sign, display, label, tag, or articulation.

9 2. "Agricultural commodity" includes but is not limited to  
10 livestock, crops, or food, such as vegetables, nuts, seeds,  
11 honey, eggs, or milk existing in an unprocessed state, which  
12 is produced on a farm and marketed in the United States for  
13 human or livestock consumption.

14 3. "Agricultural product" means an agricultural commodity  
15 or an agricultural processed product.

16 4. "Agricultural processed product" means an agricultural  
17 commodity that has been processed.

18 5. "Board" means the organic standards review and appeals  
19 board established in section 190C.2.

20 6. "Claim of genuineness" means a claim made in an  
21 advertisement that refers to an agricultural product as  
22 "organic", "organically produced", "certified organic",  
23 "certified organically grown", or a derivative of any of these  
24 terms.

25 7. "Department" means the department of agriculture and  
26 land stewardship.

27 8. "Farm" means a site where the agricultural commodities  
28 are produced.

29 9. "Food" means an agricultural product or an agricultural  
30 product ingredient which is used or intended for use in whole  
31 or in part for human consumption.

32 10. "Handler" means a person engaged in the business of  
33 handling agricultural products, including but not limited to  
34 distributors, wholesalers, brokers, and repackers. "Handler"  
35 does not include a person selling agricultural products to

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1 consumers on a retail basis, including a food service  
2 establishment as defined in section 137B.2, retail grocery,  
3 meat market, or bakery, if the person does not process the  
4 agricultural product.

5 11. "Label" means a commercial message in a printed medium  
6 which is affixed by any method to a product or to a receptacle  
7 including a container or package.

8 12. "Livestock" means an animal belonging to the bovine,  
9 caprine, equine, ovine, or porcine species; ostriches, rheas,  
10 or emus; farm deer as defined in section 481A.1; or poultry.

11 13. "Organic agricultural product" means food that is one  
12 of the following:

13 a. If the food is an agricultural commodity, it is  
14 produced and handled according to the requirements of this  
15 chapter, including the requirements provided pursuant to  
16 section 190C.11 by a person who is certified pursuant to  
17 section 190C.13 or registered as required pursuant to section  
18 190C.14.

19 b. If the food is an agricultural processed product, it is  
20 produced, handled, and processed according to the requirements  
21 of this chapter, including the requirements provided pursuant  
22 to section 190C.11 by a person who is certified pursuant to  
23 section 190C.13 or registered pursuant to section 190C.14.

24 14. "Processing" means turning an agricultural commodity  
25 into an agricultural processed product by physical or chemical  
26 modification, including but not limited to canning, freezing,  
27 drying, dehydrating, cooking, pressing, powdering, packaging,  
28 repacking, baking, heating, mixing, grinding, churning,  
29 separating, extracting, cutting, fermenting, eviscerating,  
30 preserving, jarring, brewing, or slaughtering.

31 15. "Produce" means to grow, raise, collect, or harvest an  
32 agricultural commodity.

33 16. "Producer" means a person who produces an agricultural  
34 commodity.

35 17. "Processor" means a person who processes an

1 agricultural commodity.

2 18. "Retailer" means a person, other than an operator of a  
3 food service establishment, who is engaged in the business of  
4 selling food at retail to the ultimate customer.

5 19. "Sale" or "sell" means a commercial transfer or offer  
6 for sale and distribution in any manner.

7 SUBCHAPTER 2  
8 ADMINISTRATION

9 Sec. 2. NEW SECTION. 190C.2 ORGANIC STANDARDS REVIEW AND  
10 APPEALS BOARD.

11 1. A certification standards and appeals board is  
12 established within the department. The powers of the board  
13 are vested in and shall be exercised by eleven members  
14 appointed by the governor. The governor shall accept  
15 nominations from organizations representing persons who serve  
16 on the board, as determined by the governor.

17 2. The members shall serve staggered terms of four years  
18 beginning and ending as provided in section 69.19. However,  
19 the governor shall appoint initial members to serve for less  
20 than four years to ensure members serve staggered terms.  
21 Members appointed by the governor shall be persons  
22 knowledgeable regarding the production, handling, processing,  
23 and retailing of organic agricultural products. The governor  
24 shall appoint all of the following:

25 a. Five persons who operate farms producing organic  
26 agricultural products. At least one of the persons must be a  
27 producer of livestock, who may be a dairy or egg producer. At  
28 least one person shall be a producer of an agricultural  
29 commodity other than livestock. To qualify for appointment, a  
30 person must have derived a substantial portion of the person's  
31 income, wages, or salary from the production of organic  
32 agricultural products for three years prior to appointment.

33 b. Two persons who operate businesses processing organic  
34 agricultural products. To qualify for appointment, a person  
35 must have derived a substantial portion of the person's

1 income, wages, or salary from processing organic agricultural  
2 products for three years prior to appointment.

3 c. One of the following:

4 (1) A person who operates a business handling organic  
5 agricultural products. To qualify for appointment, a person  
6 must have derived a substantial portion of the person's  
7 income, wages, or salary from handling organic agricultural  
8 products for three years prior to appointment.

9 (2) A person who operates a business selling organic  
10 agricultural products. To qualify for appointment, a person  
11 must have derived a substantial portion of the person's  
12 income, wages, or salary from selling organic agricultural  
13 products on a retail basis for three years prior to  
14 appointment.

15 d. Two persons who have an educational degree and  
16 experience in agricultural or food science. To qualify for  
17 appointment, a person must not have a financial interest in  
18 the production, handling, processing, or selling of organic  
19 agricultural products.

20 e. One person who represents the public interest, the  
21 natural environment, or consumers. To qualify for  
22 appointment, the person must be a member of an organization  
23 representing the public interest, consumers, or the natural  
24 environment. The person must not have a financial interest in  
25 the production, handling, processing, or selling of organic  
26 agricultural products.

27 3. A vacancy on the board shall be filled in the same  
28 manner as an original appointment. A person appointed to fill  
29 a vacancy shall serve only for the unexpired portion of the  
30 term. A member is eligible for reappointment. A member may  
31 be removed from office by the governor for misfeasance,  
32 malfeasance, or willful neglect of duty or other just cause,  
33 after notice and hearing, unless the notice and hearing is  
34 expressly waived in writing.

35 4. Six members of the board constitute a quorum and the

1 affirmative vote of a majority of the members present is  
2 necessary for any substantive action to be taken by the board.  
3 The majority shall not include any member who has a conflict  
4 of interest and a statement by a member that the member has a  
5 conflict of interest is conclusive for this purpose. A  
6 vacancy in the membership does not impair the right of a  
7 quorum to exercise all rights and perform all duties of the  
8 board.

9 5. The members are entitled to receive a per diem as  
10 specified in section 7E.6 for each day spent in performance of  
11 duties as members, and shall be reimbursed for all actual and  
12 necessary expenses incurred in the performance of duties as  
13 members.

14 6. If a member has a interest, either direct or indirect,  
15 in a contract to which the board is or is to be a party, the  
16 member shall disclose the interest to the board in writing.  
17 The writing stating the conflict shall be set forth in the  
18 minutes of the board. The member having the interest shall  
19 not participate in any action by the board relating to the  
20 contract.

21 7. The board shall meet on a regular basis and at the call  
22 of the chairperson or upon the written request to the  
23 chairperson of two or more members. The department shall  
24 provide administrative support to the board.

25 Sec. 3. NEW SECTION. 190C.3 BOARD POWERS AND DUTIES.

26 The organic standards review and appeals board shall have  
27 powers and duties to do all of the following:

28 1. Monitor conditions, practices, policies, programs, and  
29 procedures affecting the production, handling, processing, and  
30 sale of organic agricultural products.

31 2. Compile materials or a list of materials which may  
32 assist producers, handlers, processors, and sellers of organic  
33 agricultural products, in complying with this chapter.

34 3. Assist the department in the development and  
35 interpretation of requirements of this chapter, including

1 requirements established pursuant to section 190C.11 and  
2 standards regarding the production, processing, handling, and  
3 selling of organic agricultural products and other matters of  
4 concern to the producers, handlers, processors, and retailers  
5 of organic agricultural products.

6 4. Provide recommendations to the department regarding the  
7 administration and enforcement of this chapter, including  
8 rules adopted by the department pursuant to this chapter.

9 5. Hear appeals of contested cases involving disciplinary  
10 action brought by the department against a person pursuant to  
11 section 190C.23. The board may approve, disapprove, or modify  
12 a departmental decision, including a decision proposed by an  
13 administrative law judge under chapter 17A. The board's  
14 decision shall be final agency action as provided in chapter  
15 17A.

16 Sec. 4. NEW SECTION. 190C.4 ADMINISTRATIVE AUTHORITY.

17 1. The department shall adopt all rules necessary to  
18 administer this chapter.

19 a. The rules may include regulations governing the  
20 production, handling, processing, and selling of agricultural  
21 products by persons advertising a claim of genuineness. These  
22 rules may provide for standards, certification, registration,  
23 inspections, testing, the assessment and collection of fees,  
24 the maintenance of records, disciplinary action, and the  
25 issuance of stop sale orders as provided in this chapter.

26 b. The rules adopted under this section shall be  
27 consistent with federal regulations adopted pursuant to the  
28 federal Organic Food Production Act of 1990. The department  
29 may adopt rules which are stricter than federal regulations to  
30 the extent allowed by federal law.

31 2. The department may appoint or contract with qualified  
32 persons to serve as certifying agencies on behalf of the  
33 department. A certifying agency shall certify persons as  
34 provided by section 190C.13 and inspect the operations of  
35 persons who are certified as provided in section 190C.22,

1 according to rules adopted by the department.

2 3. A violation of this chapter includes a violation of any  
3 rule adopted or issue ordered pursuant to this chapter as  
4 provided in this chapter and under chapter 17A.

5 Sec. 5. NEW SECTION. 190C.5 FEES AND APPROPRIATION.

6 The department shall establish a schedule of fees required  
7 for certification as provided in section 190C.13 and  
8 registration as provided in section 190C.14.

9 1. Beginning in the fiscal year that starts on July 1,  
10 2000, the amount of the fees shall be based on the amount of  
11 revenues required by the department to administer and enforce  
12 this chapter. However, a person required to be certified or  
13 registered as a producer, handler, processor, or retailer  
14 shall not pay more than one hundred dollars for each year that  
15 the person is certified or registered.

16 2. The fees shall be deposited into the general fund of  
17 the state.

18 SUBCHAPTER 3

19 REQUIREMENTS

20 Sec. 6. NEW SECTION. 190C.11 REQUIREMENTS APPLICABLE TO  
21 ORGANIC AGRICULTURAL PRODUCTS.

22 1. Only the following persons may make a claim of  
23 genuineness regarding an agricultural product sold in this  
24 state:

25 a. A person certified by the department pursuant to  
26 section 190C.13.

27 b. A person registered with the department pursuant to  
28 section 190C.14.

29 2. In advertising a product produced, handled, or  
30 processed for sale in this state, the following shall apply:

31 a. If the agricultural product was produced, handled, or  
32 processed in this state a person shall not make a claim of  
33 genuineness, unless the following applies:

34 (1) An agricultural commodity must be produced and handled  
35 in accordance with the provisions of section 190C.13.

1 (2) An agricultural processed product and each  
2 agricultural commodity that is part of the agricultural  
3 processed product must comply with the provisions of  
4 subparagraph (1) and the agricultural processed product must  
5 be processed or handled in accordance with the provisions of  
6 section 190C.13.

7 b. If the agricultural product was not produced, handled,  
8 or processed in this state, a person shall not make a claim of  
9 genuineness, unless the following applies:

10 (1) An agricultural commodity must be produced and handled  
11 in accordance with the provisions of the state or nation where  
12 the agricultural product is produced and handled, and the  
13 department must find that those provisions are at least as  
14 stringent as those required in this chapter.

15 (2) An agricultural processed product and each  
16 agricultural commodity that is part of the agricultural  
17 processed product must comply with the provisions of  
18 subparagraph (1), the agricultural processed product must be  
19 processed and handled in accordance with the provisions of the  
20 state or nation where the agricultural processed product is  
21 processed and handled, and the department must find that those  
22 provisions are at least as stringent as those required in this  
23 chapter.

24 Sec. 7. NEW SECTION. 190C.12 STANDARDS.

25 A person shall not sell an agricultural commodity by making  
26 a claim of genuineness, unless the agricultural commodity is  
27 produced, handled, and processed in accordance with standards  
28 established by rules adopted by the department as provided in  
29 this chapter. An agricultural product must be produced,  
30 handled, and processed in a manner that maintains the  
31 integrity of the agricultural product until it is sold to the  
32 consumer. The integrity of the agricultural product shall be  
33 maintained without the use of synthetic additives or  
34 materials. The rules shall provide for the production,  
35 handling, and processing of organic agricultural products by

1 using cultural, biological, and mechanical methods.

2 Sec. 8. NEW SECTION. 190C.13 CERTIFICATION.

3 1. The department shall establish and administer a program  
4 to certify producers, handlers, and processors of agricultural  
5 products who make a claim of genuineness about the production,  
6 handling, and processing of agricultural products which are  
7 sold in this state.

8 a. A certification shall expire one year from the date of  
9 issuance.

10 b. In order to be certified, a producer, handler, or  
11 processor must submit to the department an organic plan as  
12 prescribed by rules adopted by the department. The plan shall  
13 include methods used to ensure that the agricultural products  
14 are produced, handled, and processed according to requirements  
15 established by the department pursuant to section 190C.11.  
16 However, this section shall not require that any of the  
17 following persons be certified:

18 (1) A retailer to the extent that the retailer sells food  
19 unsealed, unpacked, repacked, or nonrepackaged.

20 (2) A person who receives five thousand dollars or less in  
21 gross income from the sale of agricultural products.

22 Any person exempted from certification under this  
23 subsection, who makes a claim of genuineness, register  
24 pursuant to section 190C.14.

25 2. The department shall adopt rules establishing a  
26 certification procedure. The procedure shall provide that a  
27 decision to certify an applicant must be made by more than one  
28 person authorized by the department.

29 Sec. 9. NEW SECTION. 190C.14 REGISTRATION.

30 The department shall establish and administer a program to  
31 register producers, handlers, processors, and retailers of  
32 agricultural products who make a claim of genuineness about  
33 the production, handling, or processing of an agricultural  
34 product. A registration shall expire one year from the date  
35 of issuance. A person is not required to be registered

1 pursuant to this section, if the person is certified pursuant  
2 to section 190C.13. The department shall adopt rules  
3 establishing registration procedures.

4 Sec. 10. NEW SECTION. 190C.15 LABELING AND ORGANIC  
5 CERTIFICATION SEAL.

6 1. A label advertising a claim of genuineness regarding an  
7 agricultural product sold in this state shall conform with the  
8 requirements of this chapter including requirements  
9 established in rules adopted by the department pursuant to  
10 section 190C.11. The department shall adopt rules specifying  
11 the content of the label.

12 2. The department may establish a seal certifying that a  
13 claim of genuineness is valid, or that an agricultural product  
14 has been produced, handled, and processed in accordance with  
15 this chapter. A person shall not use a seal provided in this  
16 section to advertise an agricultural product, unless the  
17 person is authorized to use the seal by the department in  
18 accordance with requirements established by the department  
19 pursuant to rules adopted under chapter 17A. The seal may be  
20 used in addition to or in lieu of a label provided in  
21 subsection 1, as provided by the department.

22 Sec. 11. NEW SECTION. 190C.16 RECORDS.

23 A person required to be certified as provided in section  
24 190C.13 shall maintain records regarding the production,  
25 processing, and handling of an organic agricultural product.  
26 The records shall demonstrate that agricultural products  
27 subject to a claim of genuineness have been produced,  
28 processed, and handled in conformance with this chapter. A  
29 record is not required to be maintained for more than five  
30 years.

31 SUBCHAPTER 4  
32 ENFORCEMENT

33 Sec. 12. NEW SECTION. 190C.21 GENERAL ENFORCEMENT.

34 The department and the attorney general shall enforce this  
35 chapter. The attorney general may commence legal proceedings

1 in district court at the request of the department or upon the  
2 attorney general's own initiative in order to enforce this  
3 chapter, including rules adopted and orders issued by the  
4 department pursuant to this chapter. This chapter does not  
5 require the attorney general or the department to institute a  
6 proceeding for a minor violation, if the attorney general or  
7 department concludes that the public interest will be best  
8 served by a suitable notice of warning in writing.

9 Sec. 13. NEW SECTION. 190C.22 INVESTIGATIONS --  
10 COMPLAINTS -- INSPECTIONS -- EXAMINATIONS.

11 1. The department may conduct an investigation to  
12 determine if a person is complying with the requirements of  
13 this chapter.

14 2. Any person may file a complaint with the department  
15 regarding a violation of this chapter. The department shall  
16 adopt procedures for persons filing complaints. The  
17 department shall establish procedures for processing  
18 complaints including requiring minimum information to  
19 determine the verifiability of a complaint.

20 3. The department may conduct inspections at times and  
21 places, and to an extent that the department determines  
22 necessary in order to conclude whether an agricultural product  
23 is being produced, handled, processed, or sold in accordance  
24 with the provisions of this chapter. The department may  
25 inspect records required to be maintained pursuant to section  
26 190C.16. The department may enter upon any public or private  
27 premises during regular business hours in a manner consistent  
28 with the laws of this state and the United States, including  
29 Article I, section 8, of the Constitution of the State of  
30 Iowa, or the fourth amendment to the Constitution of the  
31 United States for purposes of carrying out an inspection.

32 4. The department may conduct examinations of agricultural  
33 products in order to determine if the products are produced,  
34 handled, processed, and sold in compliance with this chapter.

35 a. The methods for examination shall be the official

1 methods of the association of official agricultural chemists  
2 in all cases where methods have been adopted by the  
3 association.

4 b. A sworn statement by the state chemist or the state  
5 chemist's deputy stating the results of an analysis of a  
6 sample taken from a lot of agricultural products shall  
7 constitute prima facie evidence of the correctness of the  
8 analysis of that lot in an administrative hearing or court of  
9 this state.

10 Sec. 14. NEW SECTION. 190C.23 DISCIPLINARY ACTION.

11 1. The department may take disciplinary action concerning  
12 a person who is certified or registered pursuant to this  
13 chapter by doing any of the following:

- 14 a. Issuing a letter of warning or reprimand.
- 15 b. Suspending or terminating a certification or denying an  
16 application for certification required pursuant to section  
17 190C.13.
- 18 c. Suspending or canceling a registration or denying an  
19 application for registration as required pursuant to section  
20 190C.14.

21 2. The disciplinary action must be based upon evidence  
22 satisfactory to the department that the person has used  
23 fraudulent or deceptive practices in violation of this chapter  
24 or has willfully disregarded the requirements of this chapter.

25 Sec. 15. NEW SECTION. 190C.24 STOP SALE ORDER.

26 1. If a person sells an agricultural product in violation  
27 of this chapter, including a rule adopted or an order issued  
28 under this chapter, the department may issue a written order  
29 to stop the sale of the agricultural product by a person in  
30 control of the agricultural product. The person named in the  
31 order shall not sell the item until the department determines  
32 that the sale of the agricultural product is in compliance  
33 with this chapter.

34 2. The department may require that the product be held at  
35 a designated place until released by the department.

1 3. The department or the attorney general may enforce the  
2 order by petitioning the district court in the county where  
3 the agricultural product is being sold.

4 4. The department shall release the agricultural product  
5 when the department issues a release order upon satisfaction  
6 that legal requirements compelling the issuance of the stop  
7 sale order are satisfied, and all expenses incurred by the  
8 department in connection with the agricultural product's  
9 removal have been paid to the department.

10 Sec. 16. NEW SECTION. 190C.25 INJUNCTIONS.

11 The attorney general, the department, or an individual,  
12 private organization or association, county, or city may bring  
13 an action in district court to restrain a producer, processor,  
14 handler, or retailer from selling agricultural products by  
15 making claims of genuineness which are false or misleading. A  
16 petitioner shall not be required to allege facts necessary to  
17 show, or tending to show, a lack of adequate remedy at law, or  
18 that irreparable damage or loss will result if the action is  
19 brought at law or that unique or special circumstances exist.

20 Sec. 17. NEW SECTION. 190C.26 PENALTIES.

21 A person who violates this chapter is subject to a civil  
22 penalty of not more than five thousand dollars. Civil  
23 penalties shall be assessed by the district court in an action  
24 initiated by the attorney general. Each day that the offense  
25 continues constitutes a separate offense. However, a person  
26 shall not be subject to a civil penalty of more than twenty-  
27 five thousand dollars for a continuing offense. Civil  
28 penalties collected under this section shall be deposited in  
29 the general fund of the state.

30 Sec. 18. Chapter 190B, Code 1997, is repealed.

31 Sec. 19. IMPLEMENTATION.

32 1. The department of agriculture and land stewardship  
33 shall present proposed rules required to implement this Act to  
34 the organic standards review and appeals board for approval  
35 prior to filing the rules pursuant to section 17A.5.

1     2. Not later than ninety days after the effective date of  
 2 this Act, the governor shall appoint the members of the  
 3 organic standards review and appeals board as established  
 4 pursuant to section 190C.2. The governor shall make the  
 5 appointments from nominations received by the governor from  
 6 interested persons and organizations as recognized by the  
 7 governor. Members initially appointed to the board are not  
 8 required to be certified as provided in section 190C.13.

9     Sec. 20. EFFECTIVE AND APPLICABILITY DATES. This Act,  
 10 being deemed of immediate importance, takes effect upon  
 11 enactment. However, the department shall not be required to  
 12 implement all of the provisions of this Act until it receives  
 13 necessary certification or approval by the United States  
 14 department of agriculture.

EXPLANATION

15  
 16     This bill establishes requirements for the production,  
 17 handling, processing, and sale of organic agricultural  
 18 products, including commodities and processed products. The  
 19 requirements are administered by the department of agriculture  
 20 and land stewardship. The bill replaces provisions in Code  
 21 chapter 190B which currently governs the sale of organic food.

22     The bill establishes a certification standards and appeals  
 23 board within the department. The members of the board  
 24 appointed by the governor represent persons involved in the  
 25 production, handling, processing, and sale of organic  
 26 agricultural products. The board also includes a member with  
 27 an educational background in agricultural or food science and  
 28 a person representing public interest, consumer, or  
 29 environmental organizations. The board is responsible for a  
 30 number of issues, including monitoring the industry, compiling  
 31 and distributing materials designed to assist interested  
 32 persons, assisting the department in developing and  
 33 interpreting the requirements of the new chapter, providing  
 34 recommendations to the department regarding the administration  
 35 and enforcement of the chapter, and hearing appeals of

1 contested cases involving disciplinary action brought by the  
2 department against persons violating the requirement of the  
3 bill.

4 The bill provides a number of requirements which must be  
5 satisfied in order to sell an agricultural product as organic,  
6 regardless of whether the product was produced, handled, or  
7 processed in the state or outside of the state. The  
8 requirements include standards which the department is  
9 required to establish by rulemaking. The bill requires that  
10 the agricultural product must be produced, handled, and  
11 processed without the use of synthetic additives or materials.

12 The bill requires the department to establish and  
13 administer a program to certify producers, handlers, and  
14 processors of agricultural products who make claims of  
15 genuineness about the production, handling, and processing of  
16 organic agricultural products. In order to be certified, a  
17 producer, handler, and processor must submit to the department  
18 an organic plan which includes methods used to ensure that the  
19 agricultural products are produced, handled, and processed  
20 according to the bill's standards. Persons required to be  
21 certified are also required to maintain records regarding  
22 business operations. Retailers and persons receiving limited  
23 income from the sale of agricultural products are excused from  
24 certification requirements. However, these persons are  
25 required to register with the department. The bill provides  
26 that a person is not required to both be certified and  
27 registered. The bill imposes fees upon persons required to be  
28 certified or registered. The fees are established at an  
29 amount required to support administration and enforcement of  
30 the bill. The bill appropriates an amount of money equal to  
31 the moneys raised in fees in order to support departmental  
32 operations.

33 The bill authorizes the department to regulate the labeling  
34 of agricultural products claimed as being organic. The  
35 department is also authorized to establish a seal certifying

1 that an agricultural product does comply with the requirements  
2 of the bill.

3 The bill contains a number of provisions regarding  
4 enforcement. Generally, the department and the attorney  
5 general are required to enforce the bill's provisions. The  
6 department is authorized to conduct investigations, including  
7 investigations based on complaints received by the department.  
8 The department is also authorized to conduct inspections of  
9 premises where production, handling, processing, and sales  
10 occur. The department may examine agricultural products to  
11 ensure compliance with the bill's provisions. The department  
12 may take disciplinary action concerning a person who is  
13 certified or registered, by issuing a letter of warning or  
14 reprimand, suspending or terminating a certification or  
15 denying an application for certification, or suspending or  
16 canceling a registration or denying an application for  
17 registration. The department may issue a stop sale order to  
18 prevent the sale of that agricultural product which may be  
19 sold in violation of the bill's provisions. The bill grants a  
20 right of a private attorney general to persons, by allowing  
21 anyone to bring an action in district court to restrain a  
22 producer, processor, handler, or retailer from selling  
23 agricultural products in violation of the bill.

24 A person who violates the bill's provisions is subject to a  
25 civil penalty of not more than \$5,000. Civil penalties must  
26 be assessed by a district court in an action initiated by the  
27 attorney general.

28 The bill provides for implementation of the bill's  
29 provisions, including the adoption of rules and the  
30 appointment of members to the organic standards review and  
31 appeals board.

32 The bill takes effect upon enactment. However, the  
33 department is not required to implement all of the provisions  
34 of the bill until certified or approved by the United States  
35 department of agriculture.

SENATE FILE 2332

AN ACT

RELATING TO AGRICULTURE, REGULATING THE SALE OF AGRICULTURAL PRODUCTS ADVERTISED AS ORGANIC, PROVIDING FOR FEES AND APPROPRIATIONS, AND PROVIDING PENALTIES AND AN EFFECTIVE DATE.

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

SUBCHAPTER 1  
DEFINITIONS

Section 1. NEW SECTION. 190C.1 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Advertise" means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.
2. "Agricultural commodity" includes but is not limited to livestock, crops, fiber, or food, such as vegetables, nuts, seeds, honey, eggs, or milk existing in an unprocessed state, which is produced on a farm and marketed for human or livestock consumption.
3. "Agricultural product" means an agricultural commodity or an agricultural processed product.
4. "Agricultural processed product" means an agricultural commodity that has been processed.
5. "Board" means the organic standards board established in section 190C.2.
6. "Certified" means any farm, wild crop harvesting, or handling operation that is verified annually, through an on-site inspection and comprehensive review of the operation by a certifying agent under 21 U.S.C. § 2115 or by the department's certification program, as producing and handling agricultural products in accordance with this chapter and rules adopted

pursuant to this chapter.

7. "Department" means the department of agriculture and land stewardship.
8. "Farm" means a site where the agricultural commodities are produced.
9. "Food" means an agricultural product or an agricultural product ingredient which is used or intended for use in whole or in part for human consumption.
10. "Handler" means a person engaged in the business of handling agricultural products, including but not limited to distributors, wholesalers, brokers, and repackers. "Handler" does not include a person selling agricultural products to consumers on a retail basis, including a food service establishment as defined in section 137B.2, retail grocery, meat market, or bakery, if the person does not process the agricultural product.
11. "Label" means a commercial message in a printed medium which is affixed by any method to a product or to a receptacle including a container or package.
12. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rhes, or emus; farm deer as defined in section 481A.1; or poultry.
13. "Organic agricultural product" means food or fiber that is one of the following:
  - a. If the food or fiber is an agricultural commodity, it is produced and handled according to the requirements of this chapter.
  - b. If the food or fiber is an agricultural processed product, it is produced, handled, and processed according to the requirements of this chapter.
14. "Processing" means turning an agricultural commodity into an agricultural processed product by physical or chemical modification, including but not limited to canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, repacking, baking, heating, mixing, grinding, churning,

separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, brewing, or slaughtering.

15. "Produce" means to grow, raise, collect, or harvest an agricultural commodity.

16. "Producer" means a person who produces an agricultural commodity.

17. "Processor" means a person who processes an agricultural commodity.

18. "Regional organic association" means a corporation organized under chapter 504 or 504A which has certifying members, elects its own officers and directors, and is independent from the department.

19. "Retailer" means a person, other than an operator of a food service establishment, who is engaged in the business of selling food at retail to the ultimate customer.

20. "Sale" or "sell" means a commercial transfer or offer for sale and distribution in any manner.

21. "Secretary" means the secretary of agriculture.

22. "System of organic farming" means a system that is designed to produce agricultural products by the use of methods and substances that maintain the integrity of organic agricultural products until they reach the consumer. This includes a management system which promotes and enhances agroecosystem health, including biodiversity, biological cycles, and soil biological activity. This is accomplished by using cultural, biological, and mechanical methods, as opposed to using synthetic materials, to fulfill any specific function within the system.

23. "System of organic handling" means a system that is designed to handle agricultural products without the use of synthetic additives, aids, or ingredients that are used during processing, packaging, or storing agricultural products in accordance with this chapter and by the use of methods and substances that maintain the integrity of organic agricultural products until they reach the consumer.

SUBCHAPTER 2  
ADMINISTRATION

Sec. 2. NEW SECTION. 190C.2 ORGANIC STANDARDS BOARD.

1. An organic standards board is established within the department. The powers of the board are vested in and shall be exercised by eleven members appointed by the governor and secretary, as provided in this section. The governor and secretary shall accept nominations from persons or organizations representing persons who serve on the board, as determined by the governor and secretary making appointments under this section.

2. The members shall serve staggered terms of four years beginning and ending as provided in section 69.19. However, the governor and secretary shall cooperate to appoint initial members to serve for less than four years to ensure members serve staggered terms. Members appointed under this section shall be persons knowledgeable regarding the production, handling, processing, and retailing of organic agricultural products. The members of the board shall be appointed as follows:

a. Five persons who operate farms producing organic agricultural products. The governor shall appoint two of the persons, at least one of which shall be a producer of livestock, who may be a dairy or egg producer. The secretary shall appoint three of the persons, at least one of which shall be a producer of an agricultural commodity other than livestock. To qualify for appointment, a person must have derived a substantial portion of the person's income, wages, or salary from the production of organic agricultural products for three years prior to appointment.

b. Two persons who operate businesses processing organic agricultural products. One person shall be appointed by the governor and one person shall be appointed by the secretary. To qualify for appointment, a person must have derived a substantial portion of the person's income, wages, or salary

from processing organic agricultural products for three years prior to appointment.

c. One person appointed by the secretary, who shall be either of the following:

(1) A person who operates a business handling organic agricultural products. To qualify for appointment, a person must have derived a substantial portion of the person's income, wages, or salary from handling organic agricultural products for three years prior to appointment.

(2) A person who operates a business selling organic agricultural products. To qualify for appointment, a person must have derived a substantial portion of the person's income, wages, or salary from selling organic agricultural products on a retail basis for three years prior to appointment.

d. Two persons who have an educational degree and experience in agricultural or food science. One person shall be appointed by the governor and one person shall be appointed by the secretary. To qualify for appointment, a person must not have a financial interest in the production, handling, processing, or selling of organic agricultural products.

e. One person appointed by the governor, who represents the public interest, the natural environment, or consumers. To qualify for appointment, the person must be a member of an organization representing the public interest, consumers, or the natural environment. The person must not have a financial interest in the production, handling, processing, or selling of organic agricultural products.

3. A vacancy on the board shall be filled in the same manner as an original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. The governor may remove a member appointed by the governor and the secretary may remove a member appointed by the secretary, if the removal is based on the member's misfeasance, malfeasance,

or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing.

4. Six members of the board constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the board. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the board.

5. The members are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

6. If a member has an interest, either direct or indirect, in a contract to which the board is or is to be a party, the member shall disclose the interest to the board in writing. The writing stating the conflict shall be set forth in the minutes of the board. The member having the interest shall not participate in any action by the board relating to the contract.

7. The board shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more members. The department shall provide administrative support to the board.

Sec. 3. NEW SECTION. 190C.3 BOARD POWERS AND DUTIES.

The organic standards board shall have powers and duties to do all of the following:

1. Monitor conditions, practices, policies, programs, and procedures affecting the production, handling, processing, and sale of organic agricultural products.

2. Establish a schedule of state fees as provided in section 190C.5.

3. Compile materials or a list of materials which may assist producers, handlers, processors, and sellers of organic agricultural products, in complying with this chapter.

4. Assist the department in the development and interpretation of requirements of this chapter, including requirements established pursuant to this chapter, including standards regarding the production, processing, handling, and selling of organic agricultural products and other matters of concern to the producers, handlers, processors, and retailers of organic agricultural products.

5. Approve or disapprove applications for certification, after reviewing applications, inspection reports, and other materials submitted by applicants. The board may suspend a decision to approve or disapprove an application until an application is complete or additional materials relating to the application are provided to the board.

6. Establish procedures pursuant to rules adopted by the department governing appeals of decisions made by the department or board under this chapter, including final agency action under chapter 17A.

Sec. 4. NEW SECTION. 190C.4 ADMINISTRATIVE AUTHORITY.

1. The department, upon approval by the board, shall adopt all rules necessary to administer this chapter.

a. The rules may include regulations governing the production, handling, processing, and selling of agricultural products by persons advertising an agricultural product as organic. These rules may provide for standards, certification, inspections, testing, the assessment and collection of state fees, the maintenance of records, disciplinary action, and the issuance of stop sale orders as provided in this chapter.

b. The rules adopted under this section shall be consistent with federal regulations adopted pursuant to the

federal Organic Food Production Act of 1990. The department may adopt rules which are stricter than federal regulations to the extent allowed by federal law.

2. The secretary, who may act through an authorized agent, shall serve as a certifying agent under 21 U.S.C. § 2115. The secretary or the secretary's agent may serve as an inspector in order to conduct investigations at times and places and to such an extent as the secretary and the board deems necessary to determine whether a person is in compliance with this chapter, according to rules adopted by the department.

3. A violation of this chapter includes a violation of any rule adopted or issue ordered pursuant to this chapter as provided in this chapter and under chapter 17A.

Sec. 5. NEW SECTION. 190C.5 STATE FEES -- DEPOSIT INTO THE GENERAL FUND OF THE STATE.

1. The board shall establish a schedule of state fees under this chapter by rule adopted by the department, for persons required to be certified as producers, handlers, and processors of agricultural products labeled, sold, or advertised as organic as provided in section 190C.13.

2. Beginning on July 1, 2000, the board shall establish the rate of fees based on an estimate of the amount of revenues from the fees required by the department to administer and enforce this chapter. The department shall annually review the estimate and recommend a change in the rate of fees to the board if the fees must be adjusted in order to comply with this subsection. The board may approve an adjustment in the fees by rule adopted by the department at any time in order to comply with this subsection.

3. The department shall collect state fees under this chapter as provided by the board, which shall be deposited into the general fund of the state.

Sec. 6. NEW SECTION. 190C.6 REGIONAL ORGANIC ASSOCIATIONS.

The department, upon approval by the board, may authorize a regional organic association to assist the board in certifying producers, handlers, and processors of agricultural products under section 190C.13. The regional organic association must be registered with the department. The registered regional organic association, upon approval of the board, may administer the provisions of section 190C.13 by doing all of the following:

1. Reviewing applications and providing applicants with technical assistance in completing applications. The department may authorize a regional organic association to process applications, including collecting and forwarding applications to the department.

2. Preparing a summary of an application, including materials accompanying the application, for review by the department and the organic standards board. A regional organic association may include a recommendation for approval, modification, or disapproval of an application.

SUBCHAPTER 3  
REQUIREMENTS

Sec. 7. NEW SECTION. 190C.12 STANDARDS.

1. A person shall not sell an agricultural product as organic, unless the agricultural product is produced and handled in accordance with standards established by rules adopted by the department as provided in this chapter.

2. An agricultural product which is sold or advertised as organic must be produced and handled according to the following standards:

- a. The agricultural product must be produced and handled without the use of synthetic chemicals, except as otherwise provided in rules adopted by the department.

- b. The agricultural product must not be produced on land to which any prohibited substances have been applied during the three years immediately preceding the harvesting of the agricultural product.

- c. The agricultural product must be produced and handled in compliance with an organic plan agreed to by the producer and handler of the product and the certifying agent.

Sec. 8. NEW SECTION. 190C.13 CERTIFICATION.

1. The department shall establish and administer a program to certify producers, handlers, and processors of agricultural products labeled, sold, or advertised as organic. A person shall not be certified unless the certification is approved by the organic standards board.

- a. A certification shall expire one year from the date of issuance.

- b. In order to be certified by the department, a producer, handler, or processor must submit an organic plan as prescribed by rules adopted by the department. The plan shall include methods used to ensure that the agricultural products are produced, handled, and processed according to requirements established by the department pursuant to this chapter. However, this section shall not require that any of the following persons be certified:

- (1) A final retailer of agricultural products who does not process agricultural products.

- (2) A person who receives five thousand dollars or less in gross income from the sale of agricultural products.

2. The department shall adopt rules upon approval by the board establishing a certification procedure.

Sec. 9. NEW SECTION. 190C.14 LABELING AND ORGANIC CERTIFICATION SEAL.

1. A label advertising an agricultural product as organic which is produced in this state shall conform with the requirements of this chapter including requirements established in rules adopted by the department pursuant to this chapter. The department shall adopt rules specifying the content of the label.

2. The department may establish a seal certifying that an agricultural product has been produced, handled, and processed

in accordance with this chapter. A person shall not use a seal provided in this section to advertise an agricultural product, unless the person is authorized to use the seal by the department in accordance with requirements established by the department pursuant to rules adopted under chapter 17A. The seal may be used in addition to or in lieu of a label provided in subsection 1, as provided by the department.

Sec. 10. NEW SECTION. 190C.15 RECORDS.

A person required to be certified as provided in section 190C.13 shall maintain records regarding the production, processing, and handling of an organic agricultural product for five years. The records shall demonstrate that agricultural products advertised as organic have been produced, processed, and handled in conformance with this chapter.

SUBCHAPTER 4  
ENFORCEMENT

Sec. 11. NEW SECTION. 190C.21 GENERAL ENFORCEMENT.

The department and the attorney general shall enforce this chapter. The attorney general may commence legal proceedings in district court at the request of the department or upon the attorney general's own initiative in order to enforce this chapter, including rules adopted and orders issued by the department pursuant to this chapter. This chapter does not require the attorney general or the department to institute a proceeding for a minor violation, if the attorney general or department concludes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 12. NEW SECTION. 190C.22 INVESTIGATIONS -- COMPLAINTS -- INSPECTIONS -- EXAMINATIONS.

1. The department may conduct an investigation to determine if a person is complying with the requirements of this chapter.
2. Any person may file a complaint with the department regarding a violation of this chapter. The department shall

adopt procedures for persons filing complaints. The department shall establish procedures for processing complaints including requiring minimum information to determine the verifiability of a complaint.

3. The department may conduct inspections at times and places, and to an extent that the department determines necessary in order to conclude whether an agricultural product is being produced, handled, processed, or sold in accordance with the provisions of this chapter. The department may inspect records required to be maintained pursuant to section 190C.15. The department may enter upon any public or private premises during regular business hours in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States for purposes of carrying out an inspection.

4. The department may conduct examinations of agricultural products in order to determine if the products are produced, handled, processed, and sold in compliance with this chapter.

- a. The methods for examination shall be the official methods of the association of official agricultural chemists in all cases where methods have been adopted by the association.

- b. A sworn statement by the state chemist or the state chemist's deputy stating the results of an analysis of a sample taken from a lot of agricultural products shall constitute prima facie evidence of the correctness of the analysis of that lot in an administrative hearing or court of this state.

Sec. 13. NEW SECTION. 190C.23 DISCIPLINARY ACTION.

1. The board may take disciplinary action concerning a person who is certified pursuant to this chapter by doing any of the following:
  - a. Issuing a letter of warning or reprimand.

b. Suspending or terminating a certification or denying an application for certification required pursuant to section 190C.13.

2. The disciplinary action must be based upon evidence satisfactory to the board that the person has used fraudulent or deceptive practices in violation of this chapter or has willfully disregarded the requirements of this chapter.

Sec. 14. NEW SECTION. 190C.24 STOP SALE ORDER.

1. If a person sells an agricultural product in violation of this chapter, including a rule adopted or an order issued under this chapter, the department may issue a written order to stop the sale of the agricultural product by a person in control of the agricultural product. The person named in the order shall not sell the item until the department determines that the sale of the agricultural product is in compliance with this chapter.

2. The department may require that the product be held at a designated place until released by the department.

3. The department or the attorney general may enforce the order by petitioning the district court in the county where the agricultural product is being sold.

4. The department shall release the agricultural product when the department issues a release order upon satisfaction that legal requirements compelling the issuance of the stop sale order are satisfied. The board must approve a delay in issuing a release order within three months after requiring that the agricultural product be held. If the person is found to have violated this chapter, the person shall pay all expenses incurred by the department in connection with the agricultural product's removal.

Sec. 15. NEW SECTION. 190C.25 INJUNCTIONS.

The attorney general, the department, or an individual, private organization or association, county, or city may bring an action in district court to restrain a producer, processor, handler, or retailer from selling an agricultural product by

false or misleading advertising claiming that the agricultural product is organic. A petitioner shall not be required to allege facts necessary to show, or tending to show, a lack of adequate remedy at law, or that irreparable damage or loss will result if the action is brought at law or that unique or special circumstances exist.

Sec. 16. NEW SECTION. 190C.26 PENALTIES.

A person who violates this chapter is subject to a civil penalty of not more than five thousand dollars. Civil penalties shall be assessed by the district court in an action initiated by the attorney general. Each day that the offense continues constitutes a separate offense. Civil penalties collected under this section shall be deposited in the general fund of the state.

Sec. 17. Chapter 190B, Code 1997, is repealed.

Sec. 18. IMPLEMENTATION.

1. The department of agriculture and land stewardship shall present proposed rules required to implement this Act to the organic standards board for approval prior to filing the rules pursuant to section 17A.5.

2. Not later than ninety days after the effective date of this Act, the governor and secretary shall appoint the members of the organic standards board as established pursuant to section 190C.2. The governor and secretary shall make the appointments from nominations received by the governor and secretary from interested persons and organizations as recognized by the governor and secretary. Members initially appointed to the board are not required to be certified as provided in section 190C.13.

Sec. 19. STAFF QUALIFICATIONS. The department shall adopt rules regarding the qualifications of departmental personnel responsible for implementing and administering this Act.

Sec. 20. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment. However, the department shall not be required to

implement all of the provisions of this Act until it receives necessary accreditation or approval by the United States department of agriculture.

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MARY E. KRAMER  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2332, Seventy-seventh General Assembly.

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MARY PAT GUNDERSON  
Secretary of the Senate

Approved May 20, 1998

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TERRY E. BRANSTAD  
Governor