

CHAPTER 1195**ORGANICALLY PRODUCED FOOD***S.F. 2262*

AN ACT relating to organically produced food by providing for the establishment of standards, enforcement measures, penalties and an effective date.

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

Section 1. Section 190.1, Code 1987, is amended by adding the following new subsection: **NEW SUBSECTION. 68. SORGHUM SYRUP.** Sorghum syrup is liquid food derived by the concentration and heat treatment of the juice of sorghum cane.

Sec. 2. NEW SECTION. 190B.1 DEFINITIONS.

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. "Department" means the department of agriculture and land stewardship.
3. "Food product" means a product other than beef or pork capable of human consumption, including but not limited to fish, poultry, vegetables, fruit, honey, berries, eggs, seeds, dairy or grain products, and any product composed of one or more of those items.
4. "Label" means a commercial message in a printed medium which is affixed by any method to a receptacle including a container or package.
5. "Organic food" means a food product that satisfies the requirements of section 190B.2.
6. "Processor" means a person who processes or manufactures products containing ingredients that include a food product.
7. "Produce" means grow, raise, collect, or harvest a food product.
8. "Producer" means a person who produces a food product.
9. "Sale" or "sell" means a commercial transfer or offer for sale and distribution in any manner.
10. "Synthetic" includes, but is not limited to, a synthetic pesticide, hormone, antibiotic, growth stimulant, or arsenical.
11. "Vendor" means a person, including but not limited to, a producer or processor, who in the regular course of business, sells food products.

Sec. 3. NEW SECTION. 190B.2 STANDARDS.

1. For a food product to be organic food it must be considered to have been organically grown or produced or composed of ingredients that were all produced according to the following standards:
 - a. Without the use of a synthetic material, as established by the department.
 - b. Without the use of seeds that have been synthetically treated, unless untreated seeds are not generally available.
 - c. With the use of soil that has been free of a synthetic applied within the last year. After July 1, 1990, the soil must have been free of a synthetic applied within the last two years. After July 1, 1991, the soil must have been free of a synthetic applied within the last three years.
 - d. Stored in a regular, cold, or controlled atmosphere. If fumigation is needed, only diatomaceous earth or inert gases may be used.
2. The rules established by the department shall be based on a one-year study which shall be performed by the department in cooperation with producers, processors, and vendors.

Sec. 4. NEW SECTION. 190B.3 RECORDS.

1. A producer who advertises food products for sale as organic, organically produced, or by using a derivative of the term organic, shall maintain accurate records in a manner prescribed

by the department relating to the production of the food products. The records shall be retained for three years after the food products are sold and delivered by the producer.

2. A processor who advertises a food product as organic, organically produced, or by using a derivative of the term organic, shall maintain accurate records prescribed by the department, relating to the ingredients of the food product, the names and addresses of persons from whom the ingredients were purchased, and a copy of the sales receipt. The records shall be retained for three years after the food product is sold and delivered.

3. A vendor who advertises a food product as organic, organically produced, or by using a derivative of the term organic, shall maintain accurate records as prescribed by the department, relating to the names and addresses of persons from whom the food product or ingredients of the food product were purchased, the date and quantity of ingredients purchased, and a copy of the sales receipt. The records shall be retained for three years after the food products are sold and delivered.

Sec. 5. NEW SECTION. 190B.4 SWORN STATEMENTS.

A producer shall not sell to a vendor a food product that the producer advertises as organic, organically produced, or by using a derivative of the term organic, unless before the sale, the producer provides a sworn statement that the food product satisfies the requirements of this chapter. The vendor shall retain the statement as a record under section 190B.3.

Sec. 6. NEW SECTION. 190B.5 CERTIFICATION.

A food product or a receptacle containing a food product that is labeled as organic, organically produced, or by using a derivative of the term organic, shall not also be labeled as "certified" or "verified" unless the name of the person that provided the certification or verification is declared on the label.

Sec. 7. NEW SECTION. 190B.6 IDENTITY MARKINGS.

A food product or a receptacle containing food products that a vendor advertises as organic, organically produced, or by using a derivative of the term organic shall be marked in a manner that identifies the food product or all the food products contained in a receptacle as organic food. A food product advertised as organic, organically produced, or by using a derivative of the term organic, shall not include an ingredient unless the product or receptacle containing the product is marked in a manner that identifies the ingredient. A seal issued by the department pursuant to section 190B.7 to identify a food product as organic food and placed on the food product or on the receptacle shall be a sufficient mark for purposes of this section.

Sec. 8. NEW SECTION. 190B.7 DEPARTMENTAL AUTHORITY AND DUTIES.

1. The department shall enforce this chapter and may adopt rules, pursuant to chapter 17A that are necessary to clarify section 190B.2 and implement sections 190B.3 through 190B.6, this section, and section 190B.8.

2. The department may adopt rules providing for penalties, pursuant to section 190B.8, to be imposed on producers, processors, and vendors for a violation of this chapter or a departmental rule adopted pursuant to this chapter.

3. The department shall investigate the sale of a food product advertised as organic, organically produced, or by using a derivative of the term organic if there is good reason to believe that a provision of this chapter or of a rule adopted pursuant to this chapter has been violated.

4. The department shall adopt rules to restrain a producer, processor, or vendor from selling a food product advertised as organic, organically produced, or by using a derivative of the term organic, if there is good cause to believe that the food product does not satisfy the standards of section 190B.2.

5. The department may demand that a producer, manufacturer, or vendor provide relevant information from records required to be maintained pursuant to section 190B.3.

6. The department may inspect at reasonable times any area where food products advertised as organic, organically produced, or by a derivative of the term organic, are produced, processed, or sold.

7. The department may establish grades based on the standards described in section 190B.2 to distinguish between organic foods produced according to different departmental standards. The department may establish additional standards based on product testing.

8. The department may create a seal to identify food products as organic. The seal shall contain the following language: "Organically produced in accordance with chapter 190B, Code of Iowa". The seal shall be placed on food products or receptacles containing food products in a manner prescribed by the department.

Sec. 9. NEW SECTION. 190B.8 PENALTIES.

A person who acts in violation of this chapter shall be subject to one or more of the following:

1. A civil penalty of not more than five hundred dollars may be imposed on a producer who sells a food product advertised as organic, organically produced, or by using a derivative of the term organic, and does not provide a sworn statement, as required by section 190B.4, or provides a sworn statement that is fraudulent. A civil penalty of not more than five hundred dollars may be imposed on a vendor who purchases a food product advertised by a producer as organic, organically produced, or by using a derivative of the term organic, without obtaining a sworn statement, as required by section 190B.4 or obtaining a sworn statement that the vendor knows or has reason to know is false.

2. A civil penalty of not more than five hundred dollars may be imposed on a producer, processor, or vendor who fails to maintain accurate records required under section 190B.3.

3. A civil penalty of not more than five hundred dollars may be imposed on a vendor who sells a food product advertised by the vendor as organic, organically produced, or by using a derivative of the term organic, knowing that the product does not satisfy the standards of section 190B.2.

4. A civil penalty of not more than five hundred dollars may be imposed on a vendor who sells a food product advertised by the vendor as organic, organically produced, or by using a derivative of the term organic if the vendor fails to mark the food product or a receptacle containing food products in accordance with the requirements of section 190B.6.

5. A civil penalty of not more than five hundred dollars may be imposed on a person who labels a food product or a receptacle containing a food product as "certified" or "verified" contrary to section 190B.6.

Sec. 10. NEW SECTION. 190B.9 INJUNCTIVE REMEDY.

The department or an individual, private organization or association, county, or city may bring an action in district court to restrain a vendor from selling food products that the vendor falsely advertises as organic, organically produced, or by using a derivative of the term organic. A petitioner shall not be required to allege facts necessary to show, or tending to show, a lack of adequate remedy at law, that irreparable damage or loss will result if the action is brought at law or that unique or special circumstances exist.

Sec. 11. NEW SECTION. 190B.10 COSTS.

An individual, private organization or association, county, or city which prevails in an action to enjoin a vendor under section 190B.9 before a district court, the court of appeals, or the supreme court may be awarded court costs, the reasonable costs of investigation, and reasonable attorney fees related to the action. The department may require that a producer, processor, or vendor who has violated a provision of this chapter reimburse the department for the reasonable costs of investigating and administering the case.

Sec. 12. This Act takes effect July 1, 1989, except the study committee established under section 3 of this Act shall be established on July 1, 1988.

Approved May 9, 1988

CHAPTER 1196

FLOODWAY STRUCTURES AND STREAM STRAIGHTENING

S.F. 2126

AN ACT restricting the time period for the initiating of administrative or judicial actions to remove or eliminate certain structures, dams, obstructions, deposits, excavations, or stream straightenings to a floodway and providing for the Act's applicability.

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

Section 1. Section 455B.275, subsection 4, Code 1987, is amended to read as follows:

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated. The costs of abatement shall be borne by the violator. Notwithstanding section 176B.11, a structure, dam, obstruction, deposit, or excavation on a floodway or flood plain in an agricultural area established under chapter 176B is not exempt from the sections of this part which relate to regulation of flood plains and floodways. As used in this subsection, violator includes a person contracted to erect or make a structure, dam, obstruction, deposit, or excavation in a floodway including stream straightening unless the project is authorized by a permit required under this part or the project is a dam authorized pursuant to chapter 469.

Sec. 2. Section 455B.275, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The commission or the department shall not initiate any administrative or judicial action to remove or eliminate any structure, dam, obstruction, deposit, or excavation in a floodway, or to remove or eliminate any stream straightening, or to place other restrictions on the use of land or water affected by the structure, dam, obstruction, deposit, excavation, or stream straightening if not initiated within five years after the department becomes aware of the erection or making of the structure, dam, obstruction, deposit, excavation, or stream straightening. After ten years from the completion of the erection or making of the structure, dam, obstruction, deposit, excavation, or stream straightening, the prohibition of this subsection applies to, but is not limited to, any administrative or judicial abatement or action in condemnation that the commission or department may initiate under this section unless action is required to protect the public safety, in which case this section is not intended to limit the department from taking actions otherwise authorized by law.

Sec. 3. In addition to prospective application, this Act applies to all knowledge possessed by the department of natural resources for at least five years before the effective date of this Act and to all projects completed earlier than ten years before the effective date of this Act.

Approved May 9, 1988