

House Amendment 1168

Amendment Text

PAG LIN

1 1 Amend [House File 322](#) as follows:
1 2 #1. By striking everything after the enacting
1 3 clause, and inserting the following:
1 4 "Section 1. NEW SECTION. 172C.1 DEFINITIONS.
1 5 As used in this chapter, unless the context
1 6 otherwise requires:
1 7 1. "Contract livestock facility" means an animal
1 8 feeding operation as defined in section 455B.161,
1 9 where livestock owned by a contractor is produced by a
1 10 contract producer who owns the animal feeding
1 11 operation. "Contract livestock facility" includes a
1 12 confinement feeding operation as defined in section
1 13 455B.161. However, a contract livestock facility does
1 14 not include a custom cattle feedlot as defined in
1 15 section 579A.1.
1 16 2. "Contract producer" means the owner of a
1 17 contract livestock facility who is paid by a
1 18 contractor for producing livestock owned by the
1 19 contractor at the contract livestock facility.
1 20 3. "Contractor" means a person who owns livestock
1 21 and pays a contract producer for producing the
1 22 livestock at a contract livestock facility owned by
1 23 the contract producer.
1 24 4. "Livestock" means beef cattle, dairy cattle,
1 25 sheep, or swine.
1 26 5. "Processor" means a person engaged in the
1 27 business of manufacturing goods from livestock,
1 28 including a person who is required to be licensed as a
1 29 dealer or broker as provided in chapter 172A.
1 30 6. "Produce" means to provide feed or services
1 31 relating to the care and feeding of livestock. If the
1 32 livestock is dairy cattle, "produce" includes milking
1 33 the dairy cattle.
1 34 7. "Production contract" means an oral or written
1 35 agreement executed by a contract producer and a
1 36 contractor who provides that a contract producer is to
1 37 receive payment for producing livestock owned by the
1 38 contractor at the contract producer's contract
1 39 livestock facility.
1 40 Sec. 2. NEW SECTION. 172C.2 PRODUCTION CONTRACTS
1 41 CONFIDENTIALITY PROHIBITED.
1 42 A provision which is part of a production contract
1 43 is void, if the provision states that information
1 44 contained in the production contract is confidential.
1 45 The provision is void regardless of whether the
1 46 confidentiality provision is express or implied; oral
1 47 or written; required or conditional; contained in the
1 48 production contract, another production contract, or
1 49 in a related document, policy, or agreement. This
1 50 section does not affect other provisions of a
2 1 production contract or a related document, policy, or
2 2 agreement which can be given effect without the voided
2 3 provision. This section does not require either party
2 4 to a production contract to divulge the information in
2 5 the production contract to another person.
2 6 Sec. 3. NEW SECTION. 172C.3 PRODUCTION CONTRACTS
2 7 REQUIRED TO BE FILED.

2 8 1. As used in this section, all of the following
2 9 apply:

2 10 a. A production contract is advertised if it is
2 11 presented or delivered to a contract producer,
2 12 regardless of whether it is part of an offer. A
2 13 production contract is executed if it is signed by the
2 14 contractor and contract producer or authorized
2 15 representatives and is still in force.

2 16 b. A production contract is advertised or executed
2 17 regardless of whether it is a new production contract
2 18 or the renewal or extension of a previous production
2 19 contract.

2 20 2. On or before March 31 of each year, a
2 21 contractor shall file with the secretary of state
2 22 types of production contracts that are advertised or
2 23 executed by the contractor. The production contracts
2 24 filed with the secretary of state shall not include
2 25 the printed name or signature of a contract producer.
2 26 A contractor shall not advertise or execute a
2 27 production contract, unless the contractor files that
2 28 type of production contract with the secretary of
2 29 state.

2 30 3. The secretary of state in consultation with the
2 31 attorney general shall adopt rules which provide for
2 32 all of the following:

2 33 a. Criteria for distinguishing types of production
2 34 contracts. The rules shall categorize the types of
2 35 production contracts that must be submitted to the
2 36 secretary of state under this section.

2 37 b. The manner in which a contractor must file
2 38 types of production contracts. The secretary of state
2 39 may require that the types of production contracts be
2 40 filed in an electronic format.

2 41 c. Exceptions to the filing requirement as
2 42 provided in this section. The secretary of state may
2 43 create an exception because of any of the following:

2 44 (1) The consideration owed by the contractor under
2 45 all production contracts executed by the contractor
2 46 and a contract producer is minimal.

2 47 (2) There is a family relationship between the
2 48 contractor and the contract producer.

2 49 (3) The contractor and the contract producer are
2 50 part of the same family farm entity or networking
3 1 farmers entity as defined in section 10.1.

3 2 (4) The livestock is purchased for a purpose other
3 3 than for use by a processor.

3 4 4. The attorney general may provide an analysis of
3 5 filed production contracts in order to assist contract
3 6 producers in negotiating production contracts.

3 7 However, the secretary of state, in consultation with
3 8 the attorney general, may designate some information
3 9 contained in a production contract as confidential, if
3 10 such information is a confidential record under
3 11 section 22.7.

3 12 Sec. 4. NEW SECTION. 172C.4 ENFORCEMENT.

3 13 1. The attorney general's office is the primary
3 14 agency responsible for enforcing this chapter. The
3 15 secretary of state shall notify the attorney general's
3 16 office if the secretary of state has reason to believe
3 17 that a violation of section 172C.3 has occurred.

3 18 2. In enforcing the provisions of this chapter,
3 19 the attorney general may do all of the following:

3 20 a. Apply to the district court for an injunction
3 21 to do any of the following:

3 22 (1) Restrain a contractor from engaging in conduct
3 23 or practices in violation of this chapter.

3 24 (2) Require a contractor to comply with a

3 25 provision of this chapter.
3 26 b. Apply to district court for the issuance of a
3 27 subpoena to obtain a production contract for purposes
3 28 of enforcing this chapter.

3 29 c. Bring an action in district court to enforce
3 30 penalties provided in section 172C.5, including the
3 31 assessment and collection of civil penalties.

3 32 Sec. 5. NEW SECTION. 172C.5 PENALTIES.

3 33 1. A contractor who includes a confidentiality
3 34 provision in a production contract in violation of
3 35 section 172C.2 is guilty of a fraudulent practice as
3 36 provided in section 714.8.

3 37 2. A contractor who fails to file a timely or
3 38 complete production contract type as required in
3 39 section 172C.3 is subject to a civil penalty not to
3 40 exceed one thousand dollars. Each contract advertised
3 41 or executed in violation of section 172C.3 constitutes
3 42 a separate offense.

3 43 Sec. 6. Section [579A.1](#), subsections 2, 3, and 4,
3 44 Code 1999, are amended to read as follows:

3 45 2. "Custom cattle feedlot" means a feedlot where
3 46 cattle owned by a person are

~~subject to care and~~

3 47

~~feeding performed~~

~~provided feed and care by another~~
3 48 person.

3 49 3. "Custom cattle feedlot operator" means the
3 50 owner of a custom cattle feedlot or

~~a person managing~~

4 1

~~the custom cattle feedlot, if the person is authorized~~

4 2

~~by the owner to file and enforce a lien under this~~

4 3

~~chapter~~

~~the owner's personal representative.~~

4 4 4. "Feedlot" means

~~the same as defined in section~~

4 5

~~172D.1~~

~~a lot, yard, corral, building, or other area in~~
4 6 ~~which cattle are confined and fed and maintained for~~
4 7 ~~forty-five days or more in any twelve-month period.~~

4 8 Sec. 7. Section [579A.1](#), Code 1999, is amended by
4 9 adding the following new subsection:

4 10 NEW SUBSECTION. 4A. "Personal representative"
4 11 means a person who is authorized by the owner of a
4 12 custom cattle feedlot to act on behalf of the owner,
4 13 including by executing an agreement, managing a custom
4 14 cattle feedlot, or filing and enforcing liens under
4 15 this chapter.

4 16 Sec. 8. Section [579A.2](#), subsection 1, Code 1999,
4 17 is amended to read as follows:

4 18 1. A custom cattle feedlot operator shall have a
4 19 lien upon the cattle and the identifiable cash
4 20 proceeds from the sale of the cattle for the amount of
4 21 the contract price for the feed and care of the
4 22

~~livestock~~

~~cattle~~ at the custom cattle feedlot

~~agreed~~

4 23

~~upon~~

~~pursuant to a written or oral agreement~~ by the

4 24 custom cattle feedlot operator and the person who owns
4 25 the cattle, which may be enforced as provided in
4 26 section 579A.3.

4 27 Sec. 9. Section [579A.2](#), subsection 2, paragraph e,
4 28 Code 1999, is amended to read as follows:

4 29 e. The printed name and signature of the person
4 30 filing the form.

4 31 Sec. 10. Section [579A.2](#), subsection 3, Code 1999,
4 32 is amended to read as follows:

4 33 3. Except as provided in chapter 581, a lien
4 34 created under this section until preserved and a lien
4 35 preserved under this section is superior to and shall
4 36 have priority over a conflicting lien or security
4 37 interest in the cattle, including a lien or security
4 38 interest that was perfected prior to the creation of
4 39 the lien provided under this section.

4 40 Sec. 11. NEW SECTION. 579A.4 WAIVERS
4 41 UNENFORCEABLE.

4 42 A waiver of a right created by this subchapter,
4 43 including but not limited to, a waiver of the right to
4 44 file a lien pursuant to this subchapter is void and
4 45 unenforceable.

4 46 Sec. 12. NEW SECTION. 579A.5 ALTERNATE LIEN
4 47 PROCEDURE.

4 48 A person who is a custom cattle feedlot operator
4 49 may file and enforce a lien as a contract producer
4 50 under this chapter or chapter 579B, but not both.

5 1 Sec. 13. NEW SECTION. 579B.1 DEFINITIONS.

5 2 As used in this chapter, unless the context
5 3 otherwise requires:

5 4 1. "Commodity" means livestock or a crop.

5 5 2. "Contract crop field" means farmland where a
5 6 crop owned by a contractor is produced by a contract
5 7 producer.

5 8 3. "Contract livestock facility" means an animal
5 9 feeding operation as defined in section 455B.161,
5 10 where livestock owned by a contractor is produced by a
5 11 contract producer who owns the animal feeding
5 12 operation. "Contract livestock facility" includes a
5 13 confinement feeding operation as defined in section
5 14 455B.161 or a feedlot as defined in section 172D.1,
5 15 including a custom cattle feedlot.

5 16 4. "Contract operation" means a contract livestock
5 17 facility or contract crop field.

5 18 5. "Contract producer" means the owner of a
5 19 contract operation who is paid by a contractor for
5 20 producing a commodity owned by the contractor at the
5 21 contract operation. A contract producer includes a
5 22 contract producer's personal representative.

5 23 6. "Contractor" means a person who pays a contract
5 24 producer for producing a commodity at a contract
5 25 operation owned by the contract producer.

5 26 7. "Crop" means any variety of alfalfa, barley,
5 27 buckwheat, corn, flax, millet, oats, rye, sorghum,
5 28 soybeans, or wheat, forage, or silage.

5 29 8. "Farmland" means the same as defined in section
5 30 352.2.

5 31 9. "Livestock" means beef cattle, dairy cattle,
5 32 sheep, or swine.

5 33 10. "Personal representative" means a person who
5 34 is authorized by a contract producer to act on behalf
5 35 of the contract producer, including by executing an
5 36 agreement, managing a contract operation, or filing
5 37 and enforcing a lien as provided in this chapter.

5 38 11. "Processor" means a person engaged in the
5 39 business of manufacturing goods from commodities,
5 40 including a person who is required to be licensed as a
5 41 dealer or broker as provided in chapter 172A.

5 42 12. "Produce" means to do any of the following:
5 43 a. Provide feed or services relating to the care
5 44 and feeding of livestock. If the livestock is dairy
5 45 cattle, "produce" includes milking the dairy cattle.
5 46 b. Provide for planting, raising, harvesting, and
5 47 storing crop. "Produce" includes preparing the soil
5 48 for planting and nurturing the crop by the application
5 49 of fertilizers or soil conditioners as defined in
5 50 section 200.3 or pesticides as defined in section
6 1 206.2.

6 2 13. "Production contract" means an oral or written
6 3 agreement executed by a contract producer and a
6 4 contractor who provides that a contract producer is to
6 5 receive payment for producing a commodity owned by the
6 6 contractor at the contract producer's contract
6 7 operation.

6 8 Sec. 14. NEW SECTION. 579B.2 ESTABLISHMENT OF
6 9 LIEN PRIORITY.

6 10 A contract producer who is a party to a production
6 11 contract shall have a lien as provided in this
6 12 section. The amount of the lien shall be the amount
6 13 owed to the contract producer pursuant to the terms of
6 14 the production contract, which may be enforced as
6 15 provided in section 579B.3.

6 16 1. a. If the production contract is for the
6 17 production of livestock, all of the following shall
6 18 apply:
6 19 (1) The lien shall be upon all of the following:
6 20 (a) Slaughter cattle, swine, or sheep and the
6 21 identifiable cash proceeds from the sale of the swine
6 22 or sheep.
6 23 (b) Dairy cattle and the identifiable cash
6 24 proceeds from the sale of milk produced by the dairy
6 25 cattle.
6 26 (2) The lien is created at the time the livestock
6 27 arrive at the contract livestock facility and
6 28 continues for one year after the livestock is no
6 29 longer under the authority of the contract producer.
6 30 For purposes of this section, livestock is no longer
6 31 under the authority of the contract producer when the
6 32 livestock leave the contract livestock facility.

6 33 b. If the production contract is for the
6 34 production of a crop, all of the following shall
6 35 apply:
6 36 (1) The lien shall be upon the crop and the
6 37 identifiable cash proceeds from the sale of the crop.
6 38 (2) The lien is created at the time the crop is
6 39 planted and continues for one year after the crop is
6 40 no longer under the authority of the contract
6 41 producer. For purposes of this section, a crop is no
6 42 longer under the authority of the contract producer

6 43 when the crop or a warehouse receipt issued by a
6 44 warehouse operator licensed under chapter 203C for
6 45 grain from the crop is no longer under the custody or
6 46 control of the contract producer.

6 47 2. In order to preserve the lien, the contract
6 48 producer must file in the office of the secretary of
6 49 state a lien statement on a form prescribed by the
6 50 secretary of state. If the lien arises out of
7 1 producing livestock or milk, the contract producer
7 2 must file the lien within twenty days after the
7 3 livestock arrive at the contract livestock facility.
7 4 If the lien arises out of producing a crop, the
7 5 contract producer must file the lien within twenty
7 6 days after the crop is planted. The secretary of
7 7 state shall charge a fee of not more than ten dollars
7 8 for filing the statement. The secretary of state may
7 9 adopt rules pursuant to chapter 17A for the electronic
7 10 filing of the statements. The statement must include
7 11 all of the following:

7 12 a. An estimate of the amount owed pursuant to the
7 13 production contract.

7 14 b. The date when the livestock arrive at the
7 15 contract livestock facility or the date when the crop
7 16 was planted.

7 17 c. The estimated duration of the period when the
7 18 commodity will be under the authority of the contract
7 19 producer.

7 20 d. The name of the party to the production
7 21 contract whose commodity is produced pursuant to the
7 22 production contract.

7 23 e. The description of the location of the contract
7 24 operation, by county and township.

7 25 f. The printed name and signature of the person
7 26 filing the form.

7 27 4. Except as provided in chapter 581, a lien
7 28 created under this section until preserved and a lien
7 29 preserved under this section is superior to and shall
7 30 have priority over a conflicting lien or security
7 31 interest in the commodity, including a lien or
7 32 security interest that was perfected prior to the
7 33 creation of the lien provided under this section.

7 34 Sec. 15. NEW SECTION. 579B.3 ENFORCEMENT.

7 35 Before a commodity leaves the authority of the
7 36 contract producer as provided in section 579B.2, the
7 37 contract producer may foreclose a lien created in that
7 38 section in the manner provided for the foreclosure of
7 39 secured transactions as provided in sections 554.9504,
7 40 554.9506, and 554.9507. After the commodity is no
7 41 longer under the authority of the contract producer,
7 42 the contract producer may enforce the lien by
7 43 commencing an action at law for the amount of the lien
7 44 against either of the following:

7 45 1. The holder of the identifiable cash proceeds
7 46 from the sale of the commodity.

7 47 2. The processor who has purchased the commodity
7 48 within three days after the commodity is no longer
7 49 under the authority of the contract producer.

7 50 Sec. 16. NEW SECTION. 579B.4 WAIVERS

8 1 UNENFORCEABLE.

8 2 A waiver of a right created by this chapter,
8 3 including but not limited to a waiver of the right to
8 4 file a lien pursuant to this chapter, is void and
8 5 unenforceable.

8 6 Sec. 17. NEW SECTION. 579B.5 ALTERNATE LIEN
8 7 PROCEDURE.

8 8 A person who is a custom cattle feedlot operator as
8 9 defined in section 579A.1 may file and enforce a lien

8 10 as a contract producer under this chapter or chapter
8 11 579A, but not both.

8 12 Sec. 18. Section [714.8](#), Code 1999, is amended by
8 13 adding the following new subsection:

8 14 NEW SUBSECTION. 17. A contractor who includes a
8 15 confidentiality provision in a production contract in
8 16 violation of section 172C.2.

8 17 Sec. 19. EFFECTIVE DATE. This Act, being deemed
8 18 of immediate importance, takes effect upon enactment."

8 19 #2. Title page, by striking lines 1 and 2 and
8 20 inserting the following: "An Act relating to
8 21 production contracts, providing penalties, and
8 22 providing an effective".

8 23

8 24

8 25 _____
8 26 [TEIG](#) of Hamilton

8 27

8 28

8 29 _____
8 30 [KLEMME](#) of Plymouth

8 31

8 32

8 33 _____
8 34 [MUNDIE](#) of Webster

8 35

8 36

8 37 _____
8 38 [FREVERT](#) of Palo Alto

8 39 [HF 322.301](#) 78

8 40 da/cf