

MAR 10 1999
Agriculture

HOUSE FILE 597
BY SHOULTZ

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to contracts for the production and marketing of
2 livestock, providing for fees, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 597

1 Section 1. Section 22.7, Code 1999, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 38. Information contained in a livestock
4 contract submitted to the secretary of state to the extent
5 designated pursuant to section 172C.3.

6 Sec. 2. NEW SECTION. 172C.1 DEFINITIONS.

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

9 1. "Contract information" means all information contained
10 in a livestock contract, including all provisions, terms, and
11 conditions of the contract.

12 2. "Family farm entity" means the same as defined in
13 section 10.1.

14 3. "Livestock" means the same as defined in section 717.1.

15 4. "Livestock contract" means a livestock production
16 contract or a livestock marketing contract.

17 5. "Livestock contractor" means a production contractor or
18 a marketing contractor.

19 6. "Livestock producer" means a person who is paid by a
20 production contractor to produce livestock on the premises of
21 the person under a production contract or who markets
22 livestock to a marketing contractor under a marketing
23 contract.

24 7. "Marketing contract" means a contract executed by a
25 livestock producer and a marketing contractor for the sale of
26 livestock produced by a livestock producer on land in which
27 the livestock producer holds a legal interest, if the
28 marketing contractor does not own the livestock during
29 production or make management decisions substantially
30 contributing to or affecting the production of the livestock.

31 8. "Marketing contractor" means a person who executes a
32 livestock marketing contract with a livestock producer.

33 9. "Produce" means to provide for the care and feeding of
34 livestock.

35 10. "Production contract" means a contract executed by a

1 livestock producer and a production contractor for the
2 production of livestock on land in which the livestock
3 producer holds a legal interest, if the production contractor
4 owns the livestock during production and makes management
5 decisions substantially contributing to or affecting the
6 production of the livestock.

7 11. "Production contractor" means a person who executes a
8 production contract with a farmer.

9 Sec. 3. NEW SECTION. 172C.2 PROVISIONS OF
10 CONFIDENTIALITY PROHIBITED.

11 1. Except as provided in this section, a provision of a
12 livestock contract is void, if the provision requires that
13 information in the contract, including but not limited to any
14 term or condition, be confidential.

15 2. This section does not affect other provisions of the
16 contract which can be given effect without the voided
17 provision.

18 3. The secretary of state, in consultation with the
19 attorney general, may provide by rule that the requirements of
20 subsection 1 do not require either party to divulge the
21 contract information to another person.

22 4. This secretary of state does not apply to a provision
23 that is a trade secret as provided in chapter 550.

24 Sec. 4. NEW SECTION. 172C.3 CONTRACT INFORMATION.

25 1. The secretary of state, in cooperation with the
26 attorney general, shall establish a system for the submission
27 of contract information to the secretary. Except as otherwise
28 provided in this section, a livestock contractor shall submit
29 the contract information to the secretary of state according
30 to rules adopted by the secretary of state in consultation
31 with the attorney general. The secretary of state may require
32 that the contract information be submitted in an electronic
33 format according to procedures required by the secretary of
34 state. The secretary of state shall provide for the routine
35 dissemination of the contract information for public

1 examination. However, the secretary of state, in cooperation
2 with the attorney general, may designate some contract
3 information as a confidential record under section 22.7,
4 including information that identifies the names of livestock
5 producers, if the release of the information would serve no
6 public purpose.

7 2. The attorney general shall have access to all contract
8 information required to be submitted to the secretary of
9 state. The attorney general may provide an analysis of
10 contract information in order to assist livestock producers
11 who are negotiating with livestock contractors. The attorney
12 general shall assist any committee of the general assembly
13 studying the effects of livestock contracting practices.

14 3. The secretary of state, in consultation with the
15 attorney general, may provide by rule that the requirements of
16 subsection 1 do not apply to a livestock contract, under any
17 of the following circumstances:

18 a. For a production contract, if any of the following
19 applies:

20 (1) Consideration owed to the livestock producer under all
21 production contracts executed by the livestock producer and
22 the production contractor during any twelve-month period is
23 less than three thousand dollars.

24 (2) The livestock producer is related to the production
25 contractor as a spouse, parent, grandparent, lineal ascendant
26 of a grandparent or spouse, or other lineal descendant of a
27 grandparent or spouse.

28 (3) The production contractor owns a legal interest in the
29 land where the livestock is produced. For purposes of this
30 subparagraph, a marketing contract or a security interest does
31 not give rise to a legal interest in land.

32 (4) The livestock producer and the production contractor
33 are part of the same family farm entity.

34 (5) The livestock is used for breeding.

35 (6) The livestock is used exclusively for research.

1 b. For a marketing contract, if any of the following
2 applies:

3 (1) The marketing contractor is a frozen food locker plant
4 regulated under chapter 172.

5 (2) The contract price paid to the livestock producer is
6 part of price information reported to the agricultural
7 marketing service of the United States department of
8 agriculture.

9 Sec. 5. NEW SECTION. 172C.4 FEES.

10 A livestock contractor required to submit contract
11 information to the secretary of state pursuant to section
12 172C.3 shall submit a fee to the secretary of state. The fee
13 shall equal twenty-five cents for each head of livestock,
14 other than poultry, and ten cents for each head of poultry
15 reported as provided in section 172C.3. Moneys collected from
16 the fees are appropriated to the secretary of state for
17 purposes of administering this chapter. At the close of each
18 fiscal year, any remaining moneys collected in fees pursuant
19 to this section shall not revert as provided in section 8.33,
20 but shall be deposited in the manure storage indemnity fund
21 created pursuant to section 455J.2.

22 Sec. 6. NEW SECTION. 172C.5 PENALTIES.

23 1. A livestock contractor who includes information in a
24 livestock contract in violation of section 172C.2 is guilty of
25 a fraudulent practice as provided in section 714.8.

26 2. A livestock contractor failing to submit contract
27 information as required by section 172C.3 is subject to a
28 civil penalty not to exceed one thousand dollars for each day
29 that timely or complete contract information is not submitted.

30 Sec. 7. NEW SECTION. 172C.6 ENFORCEMENT AND PENALTIES.

31 1. The attorney general's office is the primary agency
32 responsible for enforcing this chapter. The department shall
33 notify the attorney general if the department has reason to
34 believe a violation of section 172C.3 has occurred.

35 2. The attorney general shall institute legal action to

1 enforce the provisions of this chapter, including by seeking
2 any of the following:

3 a. The assessment and collection of civil penalties
4 pursuant to this section.

5 b. Injunctions brought on behalf of the state to require
6 compliance with this chapter.

7 Sec. 8. Section 455J.2, subsection 2, Code 1999, is
8 amended to read as follows:

9 2. The fund consists of moneys from indemnity fees
10 remitted by permittees to the department as provided in
11 section 455J.3; moneys from indemnity fees remitted by persons
12 required to submit manure management plans to the department
13 pursuant to section 455J.4; sums collected on behalf of the
14 fund by the department through legal action or settlement;
15 moneys required to be repaid to the department by a county
16 pursuant to this chapter; civil penalties assessed and
17 collected by the department or the attorney general pursuant
18 to chapter 455B, against animal feeding operations; moneys
19 paid as a settlement involving an enforcement action for a
20 civil penalty subject to assessment and collection against
21 permittees by the department or the attorney general pursuant
22 to chapter 455B; moneys deposited by the secretary of state
23 from reporting fees as provided in section 172C.4; interest,
24 property, and securities acquired through the use of moneys in
25 the fund; or moneys contributed to the fund from other
26 sources.

27 Sec. 9. Section 714.8, Code 1999, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 17. A livestock contractor who includes a
30 confidentiality provision in a production contract in
31 violation of section 172C.2.

32 EXPLANATION

33 This bill creates a new Code chapter regulating livestock
34 contracts, including contracts for the production or marketing
35 of livestock.

1 The bill provides that any provision of a livestock
2 contract that requires the contract information to be
3 confidential is void.

4 The bill requires that the secretary of state, in
5 cooperation with the attorney general, establish a system for
6 the submission to the secretary of state of contract
7 information contained in livestock contracts executed by
8 livestock producers and livestock contractors. The bill
9 provides that the secretary of state may require that the
10 contract information be submitted in an electronic format.
11 The bill provides that the secretary of state, in cooperation
12 with the attorney general, may designate some contract
13 information as confidential records.

14 The bill establishes a number of exceptions if authorized
15 by the secretary of state, including exceptions based on the
16 amount of consideration paid under the contract, the
17 relationship of the parties, any legal interest in the land
18 owned by the livestock contractor, and whether the contract
19 price is reported to the United States department of
20 agriculture.

21 The bill provides that the attorney general has access to
22 all contract information. The attorney general may provide an
23 analysis of contract information in order to assist livestock
24 producers who are negotiating contracts with livestock
25 contractors. The bill provides that the attorney general
26 shall assist the general assembly in studying livestock
27 marketing practices.

28 The bill provides that a livestock contractor required to
29 submit contract information to the secretary of state must
30 submit a fee to the secretary of state, based on the number of
31 head of livestock reported. The bill provides that at the
32 close of each fiscal year, remaining moneys collected in fees
33 must be deposited in the manure storage indemnity fund.

34 A livestock contractor is subject to a civil penalty of up
35 to \$1,000 for each day that the livestock contractor fails to

1 submit contract information as required. The attorney general
2 is charged to prosecute cases and seek injunctive relief in
3 enforcing the bill's provisions.

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