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JUDICIARY

HOUSE FILE 2429
BY KUHN

(COMPANION TO LSB 5657SS
BY FIEGEN)

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

A BILL FOR

1 An Act relating to contamination arising from genetically
2 engineered plants and plant parts, by providing for
3 limitations on liability, and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2429

1 Section 1. NEW SECTION. 673A.1 DEFINITIONS.

2 1. "Claim" means a claim, counterclaim, cross-claim, or
3 complaint as part of a legal cause of action or a petition for
4 equitable relief that is recognized by the Iowa rules of civil
5 procedure.

6 2. "Contamination" means the presence of a plant or plant
7 part, including but not limited to a crop's seed, on crop
8 operation property, if the plant or plant part was
9 unintentionally transferred from another location and its
10 presence alters the genetic characteristics of plants growing
11 on the crop operation property or is commingled with crops
12 located on the crop operation property.

13 3. "Crop" means the same as defined in section 717A.1.

14 4. "Crop operation property" means the same as defined in
15 section 717A.1.

16 5. "Genetically engineered" means to alter the genetic
17 characteristics of a plant or plant part by modifying the
18 deoxyribonucleic acid of the plant or plant part in a manner
19 other than by pollination.

20 6. "Genetically engineered crop seed" means seed that is
21 used to produce a crop, if the seed has been genetically
22 engineered.

23 7. "Patent holder" means a person who holds rights of
24 intellectual property in a plant or plant part, including but
25 not limited to a genetically engineered crop seed or crop
26 originating from a genetically engineered crop seed, which is
27 granted a letters patent by the United States patent and
28 trademark office of the United States department of commerce.

29 Sec. 2. NEW SECTION. 673A.2 LIABILITY.

30 1. A person who holds a legal or equitable interest in
31 crop operation property or who keeps and preserves any crop by
32 planting, nurturing, harvesting, or storing the crop on crop
33 operation property, or by storing, planting, or nurturing the
34 crop's seed on crop operation property is not liable for
35 contamination of the crop operation property, including but

1 not limited to contamination of a crop or crop seed located on
2 the crop operation property.

3 2. If a party unsuccessfully asserts a claim based on the
4 infringement of rights as a patent holder due to the presence
5 of a plant or plant part on the other party's crop operation
6 property, the court shall order that the party asserting the
7 claim pay to the other party all litigation expenses which
8 shall include the other party's reasonable attorney fees and
9 reasonable expenses of expert witnesses, and court costs. The
10 litigation expenses shall be taxed as court costs, collected
11 by the clerk of the district court, and paid to the county
12 treasurer as provided in section 331.902.

13 3. This section does not limit a person from asserting a
14 claim or receiving damages or being granted injunctive relief
15 based on the claim, if the claim alleges that the person's
16 crop operation property was contaminated by another person.

17 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
18 immediate importance, takes effect upon enactment.

19 EXPLANATION

20 This bill creates new Code chapter 673A that applies to
21 claims (including a claim, counterclaim, cross-claim, or
22 complaint that is part of a legal cause of action or a
23 petition for equitable relief) based on an assertion relating
24 to the presence of a genetically engineered plant or plant
25 part that is wrongfully located on another person's crop
26 operation property (e.g., a field, orchard, nursery,
27 greenhouse, garden, elevator, seedhouse, barn, warehouse, or
28 vehicle in which a crop is maintained).

29 The bill provides that a person who holds a legal or
30 equitable interest in crop operation property or who keeps and
31 preserves any crop is not liable for contamination of the
32 person's crop operation property or the crops located there by
33 a genetically engineered plant or plant part. "Contamination"
34 is defined to mean the presence of the genetically engineered
35 plant or plant part that was unintentionally transferred to

1 the crop operation property.

2 The bill provides that if a party is unsuccessful in
3 asserting a claim based on the infringement of patent rights
4 due to the presence of a plant or plant part on the other
5 party's crop operation property, the court shall order that
6 the party asserting the claim pay the other party all
7 litigation expenses.

8 Finally, the bill provides that its provisions do not limit
9 the right of a person to assert a claim or receive damages or
10 be granted injunctive relief based on a claim which alleges
11 that the person's crop operation property was contaminated.

12 The bill takes effect upon enactment.

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