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Agriculture

HOUSE FILE 734
BY KUHN and REYNOLDS

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

A BILL FOR

An Act relating to the regulation of genetically modified agricultural and vegetable seed and providing penalties and an effective date.

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

HF 734

TLSB 2751HH 79
da/cf/24

S.F. _____ H.F. 734

Section 1. Section 199.1, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. "Contamination" means the unintended presence of a plant or plant part transferred from an originating area to an area without the presence of the plant or plant part that alters the genetic characteristics of a plant.

NEW SUBSECTION. 5B. "Crop" means any plant produced from an agricultural seed or vegetable seed, or any harvested part of the plant.

NEW SUBSECTION. 6A. "Field" means an originating field or a neighboring field.

NEW SUBSECTION. 6B. "Genetically modified" means to alter the genetic characteristics of a plant by modifying the deoxyribonucleic acid of the plant's seed in a manner other than by breeding or pollination.

NEW SUBSECTION. 19A. "Seed dealer" means a person who sells or offers for sale agricultural seed or vegetable seed to persons on a retail basis.

NEW SUBSECTION. 19B. "Seed labeler" means a person required to label agricultural seed or vegetable seed as provided in section 199.3 or 199.4.

Sec. 2. Section 199.3, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The label shall include an identification of genetically modified agricultural seed or vegetable seed included in the container. If the agricultural seed or vegetable seed is genetically modified, the label shall comply with sections 199.22 and 199.23.

Sec. 3. Section 199.8, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person shall not sell, offer for sale, or expose for sale agricultural seed or vegetable seed that has been genetically modified, if the person has represented that that agricultural seed or vegetable seed is

not genetically modified.

Sec. 4. Section 199.13, Code 2001, is amended to read as follows:

199.13 PENALTY.

1. a. A ~~violation of~~ person who violates this chapter is guilty of a simple misdemeanor.

b. A person who violates subchapter 2 is subject to a civil penalty of not more than one thousand dollars. Civil penalties collected under this paragraph shall be deposited in the general fund of the state.

2. The department may institute criminal or civil proceedings in a court of competent jurisdiction in order to enforce this chapter. When in the performance of the ~~secretary's~~ department's duties in enforcing this chapter the ~~secretary~~ department applies to a court for a temporary or permanent injunction restraining a person from violating or continuing to violate any of the provisions of this chapter or rules adopted under this chapter, the injunction is to be issued without bond and the person restrained by the injunction shall pay the costs made necessary by the procedure.

SUBCHAPTER 2

GENETICALLY MODIFIED AGRICULTURAL SEED

Sec. 5. NEW SECTION. 199.21 APPLICABILITY.

The department, in consultation with the attorney general, shall provide an exception from a requirement in this subchapter as applied to any type of genetically modified agricultural seed or genetically modified vegetable seed that is sold or offered for sale or transported in this state, if the department determines that the requirement as applied to that type of agricultural seed or vegetable seed has been preempted by federal statute or regulation. The department shall establish the exceptions by rule adopted pursuant to chapter 17A. If an exception is not provided for by rule, the department shall establish the exception by declaratory order

as provided in section 17A.9, upon receipt of a petition as provided for in that section.

Sec. 6. NEW SECTION. 199.22 NOTICE REQUIREMENTS.

1. A seed labeler shall provide notice of an agricultural seed or vegetable seed that is genetically modified on the label of a container holding the agricultural seed or vegetable seed as provided in section 199.3 or on a placard as provided in section 199.4. A seed dealer shall provide the same notice in a disclosure statement to a person purchasing the agricultural seed or vegetable seed on a retail basis prior to or at the time of the purchase. The disclosure statement may be contained on a separate form or part of an invoice or bill of sale evidencing a transaction. The seed dealer shall not sell agricultural seed or vegetable seed that has been genetically modified, unless the purchaser signs the disclosure statement acknowledging that the purchaser has read the statement. The seed dealer shall maintain a copy of the acknowledged disclosure statement as part of the seed dealer's business records.

2. The form of the disclosure statement shall be prescribed by rules adopted by the department. The notice shall appear in a printed bold-faced font in at least ten point type. The notice shall appear in the following form:

NOTICE

GENETICALLY MODIFIED AGRICULTURAL OR VEGETABLE SEED

This agricultural or vegetable seed is genetically modified. Please consult the label appearing on this package or the pamphlet required to be attached to the container or accompanying the bulk sale of agricultural or vegetable seed, regarding important production information, including possible restrictions, about the production and marketing of a crop grown from this agricultural or vegetable seed.

Sec. 7. NEW SECTION. 199.23 PRODUCTION INFORMATION REQUIREMENTS.

1. A seed labeler shall provide production information for agricultural seed or vegetable seed that has been genetically modified as required in this section to the extent that the production information is known by the seed labeler. The production information shall appear on the label as provided in section 199.3 or in a pamphlet attached to the container or accompanying agricultural seed or vegetable seed that is sold in bulk as provided in section 199.4. A seed dealer shall not sell agricultural seed or vegetable seed that the seed labeler identifies as genetically modified, unless the seed dealer provides the purchaser of agricultural seed or vegetable seed with the production information. The production information shall include all of the following:

a. A brief description of the consequences of the genetic modification, including but not limited to any consequences affecting hardiness, growth rate, yield, resistance, adaptability, appearance, or intrinsic qualities such as oil content.

b. Sound management practices required to minimize the risk of transferring gene characteristics to other varieties of plants. The sound management practices shall consist of requirements for planting agricultural seed or vegetable seed that has been genetically modified and methods to maintain the separated area in order to prevent a significant risk of contamination occurring from any of the following:

(1) The transfer of gene characteristics to crops planted on a neighboring area by pollination, including the pollination of crops or the pollination of other related plants inhabiting the neighboring area.

(2) The transfer of agricultural seed or vegetable seed that has been genetically modified to a neighboring area.

c. A notice, if necessary, regarding any financial risks associated with marketing the crop, including but not limited to restrictions regarding all of the following:

(1) The handling and storage of the crop, including

segregation requirements.

(2) The sale of the crop in domestic and foreign markets, including import restrictions imposed by other nations.

(3) The use of the crop, including restrictions regarding human consumption of the crop or products processed using the crop.

2. The language used in the production information shall comply with standard rules of spelling, grammar, punctuation, and usage. The production information shall be printed in a type size of not less than ten points. The production information shall use terms that are commonly understood by a reasonable person of average intelligence, education, and experience who regularly produces crops originating from the same type of agricultural seed or vegetable seed that has been genetically modified that the person is purchasing.

Sec. 8. NEW SECTION. 199.24 FOOD CROPS NOT APPROVED FOR HUMAN CONSUMPTION -- COLOR-CODED SEEDS OR SECURITY PLAN.

1. As used in this section, "designated seed" means agricultural seed or vegetable seed producing a crop that may be processed into a food product, but is not approved for human consumption by an agency of the federal government, including but not limited to the United States food and drug administration, because the agricultural seed or vegetable seed is genetically modified.

2. a. A person shall not sell, offer for sale, or transport designated seed in this state, unless any of the following applies:

(1) The designated seed is artificially colored solid blaze orange.

(2) The department approves a security plan, or amendments to an approved security plan, submitted by the person producing a crop from designated seed, according to rules adopted by the department. The security plan shall provide for sound management practices used to ensure that there is no risk of contamination, and for harvesting, storing,

transporting, processing, marketing, and utilizing crops or goods processed from those crops in a manner that provides no risk that the crops or goods processed from the crops will be utilized for human consumption. The security plan shall be accompanied by all necessary certifications by persons who will harvest, store, transport, process, or market the crop or goods processed from the crop, as required by the department. The department may approve amendments to the security plan.

b. A person shall not sell, offer for sale, or transport agricultural seed or vegetable seed in this state that is artificially colored solid blaze orange, unless it is designated seed. A person shall not knowingly use management practices, or harvest, store, transport, process, or market crops or goods processed from those crops in violation of the security plan.

Sec. 9. NEW SECTION. 199.25 LIABILITY.

1. a. A person who produces a crop produced from agricultural seed or vegetable seed that is genetically modified shall not be found liable for damages caused by contamination, if the crop is produced in accordance with sound management practices as provided in section 199.23.

b. A seed dealer who sells agricultural seed or vegetable seed in compliance with sections 199.23 and 199.24 shall not be found liable for damages caused by contamination.

c. A seed labeler shall be strictly liable for damages caused by contamination, if a person who produces a crop originating from genetically modified agricultural seed or vegetable seed complies with sound management practices provided by the seed labeler as required pursuant to section 199.23.

2. A person who is liable for damages caused by the contamination shall be subject to punitive damages.

Sec. 10. DIRECTIONS TO CODE EDITOR. The Code editor shall organize chapter 199 in conformance with this Act. The Code editor shall transfer sections 199.11 through 199.14 into a

new subchapter 3.

Sec. 11. EFFECTIVE DATE. This Act takes effect on September 1, 2001.

EXPLANATION

This bill amends Code chapter 199, Iowa's seed law, regulated by the department of agriculture and land stewardship. The bill creates a new subchapter regulating genetically modified agricultural and vegetable seed, including providing for the sale and distribution of such seed, including notice requirements, acknowledgments, management practices, liability, and civil penalties.

APPLICABILITY. The bill provides that the department, in consultation with the attorney general, shall provide exceptions from a requirement in the bill, if the department determines that the requirements have been preempted by federal statute or regulation.

NOTICE REQUIREMENTS. The bill provides that a person required to label seed under the chapter (referred to as "seed labeler") must label genetically modified agricultural seed or vegetable seed sold in containers or in bulk as otherwise provided in the chapter. The notice must state that the agricultural seed or vegetable seed is genetically modified and refer to production information required to be placed on the label or special pamphlet attached to the container or accompanying the bulk sale of agricultural seed or vegetable seed.

The bill provides that a person distributing agricultural seed or vegetable seed on a retail basis (referred to as a "seed dealer") must provide the notice as part of a disclosure statement on a separate form or as part of an invoice or bill of sale for the agricultural seed or vegetable seed. The bill prohibits a seed dealer from selling the agricultural seed or vegetable seed unless the purchaser signs the disclosure statement. A copy of the disclosure statement must be maintained as part of the seed dealer's business records.

PRODUCTION INFORMATION REQUIREMENTS. The bill requires that a seed labeler provide production information that must appear on the label or in a pamphlet attached to the container or accompanying agricultural seed or vegetable seed that is sold in bulk. The production information must briefly describe consequences of the genetic modification and sound management practices required to minimize the risk of transferring gene characteristics to other varieties of plants, including crops produced on neighboring areas. It must also include a notice regarding any financial risks associated with marketing the crop. The bill requires that the language used in the production information be readable, by complying with standard rules of spelling, grammar, punctuation, and usage, including terms that are commonly understood by producers.

SEEDS PRODUCING NONFOOD CROPS. The bill regulates the sale of agricultural seed or vegetable seed that produces a crop that may be processed into a food product but is not approved for human consumption (referred to as "designated seed"). The bill prohibits a person from selling, offering for sale, or transporting designated seed in this state, unless the designated seed is artificially colored solid blaze orange. The bill prohibits other seed from being so colored. As an alternative, the bill provides for the approval by the department of a security plan submitted by a producer. The security plan must provide for sound management practices used to ensure that there is no risk of contamination, and for harvesting, storing, transporting, processing, marketing and utilizing crops or goods processed from those crops in a manner that provides no risk that the crops or goods processed from the crops will be utilized for human consumption.

LIABILITY. The bill provides that a person who produces a crop originating from genetically modified agricultural seed or vegetable seed is not liable for damages caused by the contamination of another person's property, if the crop is

produced in accordance with sound management practices as directed by the seed labeler. The bill provides that a seed dealer who sells agricultural seed or vegetable seed in compliance with the bill's requirements is not liable for damages caused by the contamination. The bill provides that the seed labeler is strictly liable for damages caused by the contamination, if a person who produces a crop originating from a genetically modified agricultural seed or vegetable seed complies with sound management practices provided in the producer information.

PENALTY. A person who violates a provision of Code chapter 199 is guilty of a simple misdemeanor. The bill provides a person violating the bill's provisions is subject to a civil penalty of up to $1,000.

DIRECTIONS TO CODE EDITOR. The bill directs the Code editor to organize Code chapter 199 in conformance with the bill.

EFFECTIVE DATE. The bill becomes effective on September 1, 2001.