

# Senate Study Bill 1237

## Bill Text

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1 1 Section 1. Section [199.1](#), Code 2001, is amended by adding  
1 2 the following new subsections:

1 3 NEW SUBSECTION. 5A. "Contamination" means the unintended  
1 4 presence of a plant or plant part transferred from an  
1 5 originating area to an area without the presence of the plant  
1 6 or plant part that alters the genetic characteristics of a  
1 7 plant.

1 8 NEW SUBSECTION. 5B. "Crop" means any plant produced from  
1 9 an agricultural seed or vegetable seed, or any harvested part  
1 10 of the plant.

1 11 NEW SUBSECTION. 6A. "Field" means an originating field or  
1 12 a neighboring field.

1 13 NEW SUBSECTION. 6B. "Genetically modified" means to alter  
1 14 the genetic characteristics of a plant by modifying the  
1 15 deoxyribonucleic acid of the plant's seed in a manner other  
1 16 than by breeding or pollination.

1 17 NEW SUBSECTION. 19A. "Seed dealer" means a person who  
1 18 sells or offers for sale agricultural seed or vegetable seed  
1 19 to persons on a retail basis.

1 20 NEW SUBSECTION. 19B. "Seed labeler" means a person  
1 21 required to label agricultural seed or vegetable seed as  
1 22 provided in section 199.3 or 199.4.

1 23 Sec. 2. Section [199.3](#), subsection 1, Code 2001, is amended  
1 24 by adding the following new paragraph:

1 25 NEW PARAGRAPH. f. The label shall include an  
1 26 identification of genetically modified agricultural seed or  
1 27 vegetable seed included in the container. If the agricultural  
1 28 seed or vegetable seed is genetically modified, the label  
1 29 shall comply with sections 199.22 and 199.23.

1 30 Sec. 3. Section [199.8](#), Code 2001, is amended by adding the  
1 31 following new subsection:

1 32 NEW SUBSECTION. 4. A person shall not sell, offer for  
1 33 sale, or expose for sale agricultural seed or vegetable seed  
1 34 that has been genetically modified, if the person has  
1 35 represented that that agricultural seed or vegetable seed is  
2 1 not genetically modified.

2 2 Sec. 4. Section [199.13](#), Code 2001, is amended to read as  
2 3 follows:

2 4 199.13 PENALTY.

2 5 1. a. A

~~violation of~~

~~person who violates~~ this chapter is

2 6 guilty of a simple misdemeanor.

2 7 b. A person who violates subchapter 2 is subject to a

2 8 civil penalty of not more than one thousand dollars. Civil

2 9 penalties collected under this paragraph shall be deposited in

2 10 the general fund of the state.

2 11 2. The department may institute criminal or civil

2 12 proceedings in a court of competent jurisdiction in order to

2 13 enforce this chapter. When in the performance of the

2 14

~~secretary's~~

~~department's~~ duties in enforcing this chapter the

2 15

~~secretary~~

- department applies to a court for a temporary or  
2 16 permanent injunction restraining a person from violating or  
2 17 continuing to violate any of the provisions of this chapter or  
2 18 rules adopted under this chapter, the injunction is to be  
2 19 issued without bond and the person restrained by the  
2 20 injunction shall pay the costs made necessary by the  
2 21 procedure.

## SUBCHAPTER 2

### GENETICALLY MODIFIED AGRICULTURAL SEED

#### Sec. 5. NEW SECTION. 199.21 APPLICABILITY.

2 25 The department, in consultation with the attorney general,  
2 26 shall provide an exception from a requirement in this  
2 27 subchapter as applied to any type of genetically modified  
2 28 agricultural seed or genetically modified vegetable seed that  
2 29 is sold or offered for sale or transported in this state, if  
2 30 the department determines that the requirement as applied to  
2 31 that type of agricultural seed or vegetable seed has been  
2 32 preempted by federal statute or regulation. The department  
2 33 shall establish the exceptions by rule adopted pursuant to  
2 34 chapter 17A. If an exception is not provided for by rule, the  
2 35 department shall establish the exception by declaratory order  
3 1 as provided in section 17A.9, upon receipt of a petition as  
3 2 provided for in that section.

#### 3 3 Sec. 6. NEW SECTION. 199.22 NOTICE REQUIREMENTS.

3 4 1. A seed labeler shall provide notice of an agricultural  
3 5 seed or vegetable seed that is genetically modified on the  
3 6 label of a container holding the agricultural seed or  
3 7 vegetable seed as provided in section 199.3 or on a placard as  
3 8 provided in section 199.4. A seed dealer shall provide the  
3 9 same notice in a disclosure statement to a person purchasing  
3 10 the agricultural seed or vegetable seed on a retail basis  
3 11 prior to or at the time of the purchase. The disclosure  
3 12 statement may be contained on a separate form or part of an  
3 13 invoice or bill of sale evidencing a transaction. The seed  
3 14 dealer shall not sell agricultural seed or vegetable seed that  
3 15 has been genetically modified, unless the purchaser signs the  
3 16 disclosure statement acknowledging that the purchaser has read  
3 17 the statement. The seed dealer shall maintain a copy of the  
3 18 acknowledged disclosure statement as part of the seed dealer's  
3 19 business records.

3 20 2. The form of the disclosure statement shall be  
3 21 prescribed by rules adopted by the department. The notice  
3 22 shall appear in a printed bold-faced font in at least ten  
3 23 point type. The notice shall appear in the following form:

#### 3 24 NOTICE

#### 3 25 GENETICALLY MODIFIED AGRICULTURAL OR 3 26 VEGETABLE SEED

3 27 This agricultural or vegetable seed is genetically  
3 28 modified. Please consult the label appearing on this package  
3 29 or the pamphlet required to be attached to the container or  
3 30 accompanying the bulk sale of agricultural or vegetable seed,  
3 31 regarding important production information, including possible  
3 32 restrictions, about the production and marketing of a crop  
3 33 grown from this agricultural or vegetable seed.

#### 3 34 Sec. 7. NEW SECTION. 199.23 PRODUCTION INFORMATION

#### 3 35 REQUIREMENTS.

4 1 1. A seed labeler shall provide production information for  
4 2 agricultural seed or vegetable seed that has been genetically  
4 3 modified as required in this section to the extent that the  
4 4 production information is known by the seed labeler. The  
4 5 production information shall appear on the label as provided  
4 6 in section 199.3 or in a pamphlet attached to the container or  
4 7 accompanying agricultural seed or vegetable seed that is sold  
4 8 in bulk as provided in section 199.4. A seed dealer shall not  
4 9 sell agricultural seed or vegetable seed that the seed labeler

4 10 identifies as genetically modified, unless the seed dealer  
4 11 provides the purchaser of agricultural seed or vegetable seed  
4 12 with the production information. The production information  
4 13 shall include all of the following:

4 14 a. A brief description of the consequences of the genetic  
4 15 modification, including but not limited to any consequences  
4 16 affecting hardiness, growth rate, yield, resistance,  
4 17 adaptability, appearance, or intrinsic qualities such as oil  
4 18 content.

4 19 b. Sound management practices required to minimize the  
4 20 risk of transferring gene characteristics to other varieties  
4 21 of plants. The sound management practices shall consist of  
4 22 requirements for planting agricultural seed or vegetable seed  
4 23 that has been genetically modified and methods to maintain the  
4 24 separated area in order to prevent a significant risk of  
4 25 contamination occurring from any of the following:

4 26 (1) The transfer of gene characteristics to crops planted  
4 27 on a neighboring area by pollination, including the  
4 28 pollination of crops or the pollination of other related  
4 29 plants inhabiting the neighboring area.

4 30 (2) The transfer of agricultural seed or vegetable seed  
4 31 that has been genetically modified to a neighboring area.

4 32 c. A notice, if necessary, regarding any financial risks  
4 33 associated with marketing the crop, including but not limited  
4 34 to restrictions regarding all of the following:

4 35 (1) The handling and storage of the crop, including  
5 1 segregation requirements.

5 2 (2) The sale of the crop in domestic and foreign markets,  
5 3 including import restrictions imposed by other nations.

5 4 (3) The use of the crop, including restrictions regarding  
5 5 human consumption of the crop or products processed using the  
5 6 crop.

5 7 2. The language used in the production information shall  
5 8 comply with standard rules of spelling, grammar, punctuation,  
5 9 and usage. The production information shall be printed in a  
5 10 type size of not less than ten points. The production  
5 11 information shall use terms that are commonly understood by a  
5 12 reasonable person of average intelligence, education, and  
5 13 experience who regularly produces crops originating from the  
5 14 same type of agricultural seed or vegetable seed that has been  
5 15 genetically modified that the person is purchasing.

5 16 Sec. 8. NEW SECTION. 199.24 FOOD CROPS NOT APPROVED FOR  
5 17 HUMAN CONSUMPTION COLOR-CODED SEEDS OR DISPOSITION PLAN.

5 18 1. As used in this section, "designated seed" means  
5 19 agricultural seed or vegetable seed producing a crop that may  
5 20 be processed into a food product, but is not approved for  
5 21 human consumption by an agency of the federal government,  
5 22 including but not limited to the United States food and drug  
5 23 administration, because the agricultural seed or vegetable  
5 24 seed is genetically modified.

5 25 2. a. A person shall not sell, offer for sale, or  
5 26 transport designated seed in this state, unless any of the  
5 27 following applies:

5 28 (1) The designated seed is artificially colored solid  
5 29 blaze orange.

5 30 (2) The department approves a security plan, or amendments  
5 31 to an approved security plan, submitted by the person  
5 32 producing a crop from designated seed, according to rules  
5 33 adopted by the department. The security plan shall provide  
5 34 for sound management practices used to ensure that there is no  
5 35 risk of contamination, and for harvesting, storing,  
6 1 transporting, processing, marketing, and utilizing crops or  
6 2 goods processed from those crops in a manner that provides no  
6 3 risk that the crops or goods processed from the crops will be  
6 4 utilized for human consumption. The security plan shall be  
6 5 accompanied by all necessary certifications by persons who  
6 6 will harvest, store, transport, process, or market the crop or

6 7 goods processed from the crop, as required by the department.  
6 8 The department may approve amendments to the security plan.  
6 9 b. A person shall not sell, offer for sale, or transport  
6 10 agricultural seed or vegetable seed in this state that is  
6 11 artificially colored solid blaze orange, unless it is  
6 12 designated seed. A person shall not knowingly use management  
6 13 practices, or harvest, store, transport, process, or market  
6 14 crops or goods processed from those crops in violation of the  
6 15 security plan.

6 16 Sec. 9. NEW SECTION. 199.25 LIABILITY.

6 17 1. a. A person who produces a crop produced from  
6 18 agricultural seed or vegetable seed that is genetically  
6 19 modified shall not be found liable for damages caused by  
6 20 contamination, if the crop is produced in accordance with  
6 21 sound management practices as provided in section 199.23.

6 22 b. A seed dealer who sells agricultural seed or vegetable  
6 23 seed in compliance with sections 199.23 and 199.24 shall not  
6 24 be found liable for damages caused by contamination.

6 25 c. A seed labeler shall be strictly liable for damages  
6 26 caused by contamination, if a person who produces a crop  
6 27 originating from genetically modified agricultural seed or  
6 28 vegetable seed complies with sound management practices  
6 29 provided by the seed labeler as required pursuant to section  
6 30 199.23.

6 31 2. A person who is liable for damages caused by the  
6 32 contamination shall be subject to punitive damages.

6 33 Sec. 10. DIRECTIONS TO CODE EDITOR. The Code editor shall  
6 34 organize chapter 199 in conformance with this Act. The Code  
6 35 editor shall transfer sections 199.11 through 199.14 into a  
7 1 new subchapter 3.

7 2 Sec. 11. EFFECTIVE DATE. This Act takes effect on  
7 3 September 1, 2001.

7 4 EXPLANATION

7 5 This bill amends Code chapter 199, Iowa's seed law,  
7 6 regulated by the department of agriculture and land  
7 7 stewardship. The bill creates a new subchapter regulating  
7 8 genetically modified agricultural and vegetable seed,  
7 9 including providing for the sale and distribution of such  
7 10 seed, including notice requirements, acknowledgments,  
7 11 management practices, liability, and civil penalties.

7 12 APPLICABILITY. The bill provides that the department, in  
7 13 consultation with the attorney general, shall provide  
7 14 exceptions from a requirement in the bill, if the department  
7 15 determines that the requirements have been preempted by  
7 16 federal statute or regulation.

7 17 NOTICE REQUIREMENTS. The bill provides that a person  
7 18 required to label seed under the chapter (referred to as "seed  
7 19 labeler") must label genetically modified agricultural seed or  
7 20 vegetable seed sold in containers or in bulk as otherwise  
7 21 provided in the chapter. The notice must state that the  
7 22 agricultural seed or vegetable seed is genetically modified  
7 23 and refer to production information required to be placed on  
7 24 the label or special pamphlet attached to the container or  
7 25 accompanying the bulk sale of agricultural seed or vegetable  
7 26 seed.

7 27 The bill provides that a person distributing agricultural  
7 28 seed or vegetable seed on a retail basis (referred to as a  
7 29 "seed dealer") must provide the notice as part of a disclosure  
7 30 statement on a separate form or as part of an invoice or bill  
7 31 of sale for the agricultural seed or vegetable seed. The bill  
7 32 prohibits a seed dealer from selling the agricultural seed or  
7 33 vegetable seed unless the purchaser signs the disclosure  
7 34 statement. A copy of the disclosure statement must be  
7 35 maintained as part of the seed dealer's business records.

8 1 PRODUCTION INFORMATION REQUIREMENTS. The bill requires  
8 2 that a seed labeler provide production information that must  
8 3 appear on the label or in a pamphlet attached to the container

8 4 or accompanying agricultural seed or vegetable seed that is  
8 5 sold in bulk. The production information must briefly  
8 6 describe consequences of the genetic modification and sound  
8 7 management practices required to minimize the risk of  
8 8 transferring gene characteristics to other varieties of  
8 9 plants, including crops produced on neighboring areas. It  
8 10 must also include a notice regarding any financial risks  
8 11 associated with marketing the crop. The bill requires that  
8 12 the language used in the production information be readable,  
8 13 by complying with standard rules of spelling, grammar,  
8 14 punctuation, and usage, including terms that are commonly  
8 15 understood by producers.

8 16 SEEDS PRODUCING NONFOOD CROPS. The bill regulates the sale  
8 17 of agricultural seed or vegetable seed that produces a crop  
8 18 that may be processed into a food product but is not approved  
8 19 for human consumption (referred to as "designated seed"). The  
8 20 bill prohibits a person from selling, offering for sale, or  
8 21 transporting designated seed in this state, unless the  
8 22 designated seed is artificially colored solid blaze orange.  
8 23 The bill prohibits other seed from being so colored. As an  
8 24 alternative, the bill provides for the approval by the  
8 25 department of a security plan submitted by a producer. The  
8 26 security plan must provide for sound management practices used  
8 27 to ensure that there is no risk of contamination, and for  
8 28 harvesting, storing, transporting, processing, marketing and  
8 29 utilizing crops or goods processed from those crops in a  
8 30 manner that provides no risk that the crops or goods processed  
8 31 from the crops will be utilized for human consumption.

8 32 LIABILITY. The bill provides that a person who produces a  
8 33 crop originating from genetically modified agricultural seed  
8 34 or vegetable seed is not liable for damages caused by the  
8 35 contamination of another person's property, if the crop is  
9 1 produced in accordance with sound management practices as  
9 2 directed by the seed labeler. The bill provides that a seed  
9 3 dealer who sells agricultural seed or vegetable seed in  
9 4 compliance with the bill's requirements is not liable for  
9 5 damages caused by the contamination. The bill provides that  
9 6 the seed labeler is strictly liable for damages caused by the  
9 7 contamination, if a person who produces a crop originating  
9 8 from a genetically modified agricultural seed or vegetable  
9 9 seed complies with sound management practices provided in the  
9 10 producer information.

9 11 PENALTY. A person who violates a provision of Code chapter  
9 12 199 is guilty of a simple misdemeanor. The bill provides a  
9 13 person violating the bill's provisions is subject to a civil  
9 14 penalty of up to \$1,000.

9 15 DIRECTIONS TO CODE EDITOR. The bill directs the Code  
9 16 editor to organize Code chapter 199 in conformance with the  
9 17 bill.

9 18 EFFECTIVE DATE. The bill becomes effective on September 1,  
9 19 2001.

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