

MAR 12 2003
Agriculture

HOUSE FILE 512
BY KUHN and WHITAKER

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

A BILL FOR

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

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

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HF 512

1 Section 1. Section 199.1, Code 2003, is amended by adding
2 the following new subsections:

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

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

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

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

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

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

23 Sec. 2. Section 199.3, subsection 1, Code 2003, is amended
24 by adding the following new paragraph:

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

30 Sec. 3. Section 199.8, Code 2003, is amended by adding the
31 following new subsection:

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

1 not genetically modified.

2 Sec. 4. Section 199.13, Code 2003, is amended to read as
3 follows:

4 199.13 PENALTY.

5 1. a. A violation-of person who violates this chapter is
6 guilty of a simple misdemeanor.

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

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

22 SUBCHAPTER 2

23 GENETICALLY MODIFIED AGRICULTURAL SEED

24 Sec. 5. NEW SECTION. 199.21 APPLICABILITY.

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

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

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

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

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

24 NOTICE
25 GENETICALLY MODIFIED AGRICULTURAL OR
26 VEGETABLE SEED

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

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

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

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

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

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

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

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

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

1 segregation requirements.

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

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

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

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

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

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

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

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

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

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

16 Sec. 9. NEW SECTION. 199.25 LIABILITY.

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

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

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

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

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

1 new subchapter 3.

2 Sec. 11. EFFECTIVE DATE. This Act takes effect on
3 September 1, 2003.

4 EXPLANATION

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

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

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

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

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

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

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

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

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

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

18 EFFECTIVE DATE. The bill becomes effective on September 1,
19 2003.

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